

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
TRENTON VICINAGE

Charles Novins and Charles Novins, Esq. P.C.
V.

CIVIL ACTION NUMBER
09-CV-5354-AET-DEA

Kevin Cannon, *et al.*

~~DEFENDANTS~~ *
~~JOINT FINAL PRETRIAL ORDER~~

The following shall constitute the Final Pretrial Order pursuant to Rule 16 of the Federal Rules of Civil Procedure, and this Final Pretrial Order shall govern the Conduct of the trial of this case. Amendments to this order will be allowed only in exceptional circumstances to prevent manifest injustice.

APPEARANCES:

For Kevin Cannon
Carl R. Osterwald and
Yvonne S. Osterwald:

Joseph A. Manzo, Esq.
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For Richard "Vince" Lamb:

Dennis J. Duncan, Esq.
Mailing Address: P.O. Box 2582, Bloomfield, New Jersey 07003
Office Address: 385 Elm Street, Kearny, New Jersey 07032
Phone: (973) 743-7100
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For Plaintiff Charles Novins and Plaintiff Charles Novins, Esq. P.C.
Charles Novins, Esq. PC
54 East Water Street
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* Plaintiff did not participate in the preparation of this Order.

[Signature]
USAT

1. Nature of the Action and Jurisdiction of the Court:

Osterwald: Counterclaim made by Carl R. Osterwald and Yvonne S. Osterwald against Charles Novins and Charles Novins, Esq. P.C. for intentional torts of defamation and false light. Charles Novins Esq., P.C. defaulted with regard to his answer to the both counts of the complaint.

Lamb: Counterclaim made by Richard "Vince Lamb" against Charles Novins, Esq. P.C. and Charles Novins, individually for intentional torts of defamation, false light, private facts, intrusion, intentional interference with contract, intentional interference with contract prospective economic advantage, derivative tort of criminal harassment pursuant N.J.S.A. 2C:33-4, abuse of process and frivolous law suit

2. Factual contentions of Plaintiff:

Plaintiff Charles Novins alleged defamation in his case against Carl R. Osterwald, and this claim was dismissed by Hon. Anne Thompson on April 27, 2010. He has no present claims against Carl R. Osterwald, and never made any claims against Yvonne S. Osterwald.

Plaintiffs Charles Novins, Esq. P.C. and Charles Novins individually alleged a February 13, 2008 USENET posting attached as Exhibit A to their complaint was defamatory and authored or republished by Carl R. Osterwald and Richard "Vince" Lamb as well as seven (7) other individuals and three (3) corporations and several other fictitious names. Plaintiff's complaint was dismissed as to Richard "Vince" Lamb on April 27, 2010 by the Hon. Anne E. Thompson, U.S.D.J. Subsequently, on August 16,

2010 the Hon. Douglas Arpert, U.S.M.J. entered an Order prohibiting the Plaintiffs from claiming that Richard "Vince" Lamb authored Exhibit A to Plaintiffs Complaint, republished that February 13, 2008 USENET posting or assisted others in posting that writing (nor did Richard "Vince" Lamb used any aliases to do so).

3. Factual Contentions of Defendants/Counter-Plaintiff:

(Counterclaim): Carl R. and Yvonne S. Osterwald v. Charles Novins (personally):

Counterclaimants contend that Charles Novins made numerous posts on the Usenet and over the Internet in which he defamed Carl Osterwald by graphically alleging that Mr. Osterwald was a sexual predator, a pedophile, a homosexual, and that he had been fired from his job.

(Counterclaim) Carl R. and Yvonne S. Osterwald v. Charles Novins, Esq., P.C.:

Counterclaimants contend that Charles Novins made numerous posts on the Usenet and over the Internet in which he defamed Carl Osterwald by graphically alleging that Mr. Osterwald was a sexual predator, a pedophile, a homosexual, and that he had been fired from his job. In addition, Mr. Novins placed Ms. Osterwald in a false light saying that she uncovered her husband in bed with a couple of gay teens from the city park and threw him out of the marital residence as a result of that discovery. Charles Novins, Esq. P.C. defaulted in its answer to these complaints.

(Counterclaim): Richard "Vince" Lamb vs. Law Offices of Charles Novins PC and

Charles Novins (individually): Since, June 2007 the Plaintiffs have engaged in a campaign of harassment directed at Dr. Richard "Vince" Lamb. In particular, Plaintiffs have continuously sought Dr. Lamb's assistance in providing the Plaintiffs information

on their online nemesis who they call “Roger.” In early September 2007, after not receiving Dr. Lamb’s assistance Plaintiffs hired a private detective to obtain Dr. Lamb’s real name and personal information from Lamb’s secret online account. Then, Plaintiffs sent Dr. Lamb an e-mail where they threatened Lamb with a frivolous law suit to “determine and/or reveal the identity of Novins’ online nemesis Roger.” In that e-mail Plaintiffs stated that you’ll be “. . . served in a few days with a law suit. If you ain’t the guy, it isn’t going to matter, just go through the motions and you’ll be done with it”.

Due to Dr. Lamb’s failure to respond to the Plaintiff’s September 13, 2007 e-mail threat, Plaintiffs proceeded to contact Dr. Lamb’s employer Oakland Community College [“OCC”] by sending two faxes to the Director of Human Relations on September 17, 2007 and October 3, 2007. In those faxes Plaintiffs identified themselves as an attorney and alleged that Dr. Lamb engaged in libelous and criminally harassing activities on USENET. Moreover, those faxes threatened the filing of lawsuits in both federal and state venues. The fax also asked Dr. Lamb’s employer to “consider whether or not he [Lamb] may be a liability to the school.” Feeling unsatisfied by Dr. Lamb’s employer’s response, Plaintiff then sent Dr. Lamb a letter indicating that Plaintiffs would not file a lawsuit naming Lamb if, *inter alia*, Lamb provided Plaintiffs with “identifying data on various posters who participated in the [June 2007] thread” (Again, Plaintiff Charles Novins wanted information on his nemesis Roger). The letter concluded indicating that within two weeks from the date of the letter Lamb would receive a “summons, complaint, and subpoena”.

On December 24, 2007, at 3:10 P.M., Plaintiffs sent Dr. Lamb an e-mail containing the following threat: You will either help me track down this psychotic vicious troll, or *your going to stay on my radar*. Regrettably on January 24, 2009 Dr.

Lamb mentioned Plaintiff's online handle "Atlas Bugged" in a USENET posting which Plaintiffs immediately responded: "Back on my radar. *No upside in that for you.*"

Subsequently, Dr. Lamb received a letter at work from Plaintiffs wherein Plaintiffs refers to the January 24, 2009 posting where Lamb mentioned Plaintiffs online handle. In that letter Plaintiffs requested *inter alia* that Lamb provide identifying data on Plaintiffs' nemesis Roger as well as "various posters who participated in the thread, "including all offline communications with them, including headers where e-mails were exchanged." Plaintiffs indicated that "information must lead to useful identification or this offer is unavailable." The "offer" Plaintiffs' referred to was Plaintiffs' offer not to sue Dr. Lamb if Lamb gave Plaintiffs the real names of all the handles of the persons on USENET including Novins' nemesis Roger.

On February 18, 2009 after filing their complaint erroneously naming Dr. Lamb and not receiving a response from Dr. Lamb, Plaintiffs faxed a third letter to the Director of Human Relations at OCC . In that February 18, 2009 fax, Plaintiffs indicated that Dr. Lamb failed to " . . . make any effort to contact me [Charles Novins] at all, and ignored my [Charles Novins] overtures to him" since the fall of 2007. In addition, Plaintiffs requested that Casey release Dr. Lamb's home address for service.

On February 19, 2009, in USENET posting Plaintiffs indicated that they talked to the Dean of Oakland Community College about Dr. Lamb "several times." (In that thread, Novins also indicated that his motivation in contacting **Lamb's employer was to get Lamb fired.** Then on February 22, 2009, in another USENET posting, Plaintiffs indicated that they were engaging in economic warfare against Dr. Lamb to make "the costs [of defending against Plaintiff's lawsuit] more than the rent you pay".

4. Factual Contentions of Defendant/Third Party Plaintiff:

None.

5. Factual Contentions of Third Party Defendants:

None.

6. Stipulated Facts:

Osterwald:

1. Counter-Claimant Carl R. Osterwald is an individual whose principal address is 75 S. Dudley St. Lakewood, Colorado 80226.
2. Counter-Claimant Yvonne S. Osterwald is an individual whose principal address is 75 S. Dudley St. Lakewood, Colorado 80226.
3. Counter-Claimants Carl R. and Yvonne S. Osterwald are husband and wife and were married in a civil ceremony on June 21, 1980.
4. Charles Novins is an individual and licensed attorney living in the State of New Jersey.
5. Charles Novins, Esq., P.C. is a professional corporation organized under the laws of the State of New Jersey and is actually registered with the New Jersey Department of State as "Law Offices of Charles Novins PC" and has its principal place of business in Ocean County New Jersey.
6. Usenet is the oldest system of organized bulletin boards for the Internet and dates back to the early 1980's.
7. It is organized as a network of linked Usenet servers which store and distribute posts written by people.

8. Posters to the servers use client software to upload messages, photos, or other data to the newsgroups.
9. Once posted, a Usenet message can be saved theoretically forever, and may be archived on various Usenet file servers throughout the world.
10. The post header appears on each post and contains, among other things, information regarding the author of the post.
11. Posters can post messages under their actual name or assume a fictitious name.
12. Charles Novins either as an individual or on behalf of Charles Novins, ESQ., P.C. has been associated with or has used the posting names or profiles of Charles Novins <taxslave@free-market.net>; Robert Charles <taxslave@free-market.net>; Atlas Bugged <atlasbuggedbyspam@gmail.com>; NewParadigmLawfirm <cnjlaw@gmail.com>; The Atlas Bugged Experience; and Charles Novins.
13. Charles Novins either as an individual or on behalf of Charles Novins, Esq., P.C., or using posting names posted to various newsgroups in the Usenet system including alt.sex.prostitution, alt.usenet.kooks, and humanities.philosophy.objectivism.
14. John C. is a posting name used by John Cook, II who made posts to the Usenet system.
15. Gregory Hall is posting name used by an unknown person(s) or corporation(s) who made posts to the Usenet system.
16. Art Deco is a posting name used by the Counter-Claimant Carl R. Osterwald to make posts to the Usenet system.
17. Carl R. Osterwald lives in Lakewood, Colorado, and is employed in Golden, Colorado.

18. On February 10, 2009 a post from one Gregory Hall referred to Art Deco as the “pedo” Art Deco, and asks a “John C.” for incriminating information for use in compiling a pedophile list.

19. On February 11, 2009, Charles Novins, using the posting name atlas bugged <atlasbuggedbyspam@gmail.com>, asked John C. for any information he has on “Colorado Carl” to assist with his process service, and repeats and republished the prior post of Mr. Hall’s from February, 10, 2009.

20. On February 11, 2009, “John C.” published two town addresses for “Carl O.” - one in Golden, Colorado, and one in Lakewood, Colorado. John C. also published the following:

I suspect that he lived with his wife Yvonne and daughter Katy Lee at the Lakewood address until she caught him in bed with a couple of the "Gay teens" from the City Park, so now he lives at the Golden, Colorado address where he shares his bed with "Who Knows", now.... Being a Faggot, Deco hates wimmins and thus hated his new female boss at his "Gravy Train" gov't. job. He couldn't hold his tongue very long as it was always covered with white teen boy jizz and started "Bad-Mouthing" his new female boss on the newsgroup 'alt.rhode_island' and she was tipped-off by Phineas Puddleduck and the rest is history. Details in the e-mail !!

21. On February 11, 2009 Charles Novins, using the posting name atlas bugged <atlasbuggedbyspam@gmail.com>, reposted the February 11, 2009 comments by John C. on several newsgroups, thereby reaching a worldwide audience, and publically thanked John C. multiple times for his efforts, citations, and posts.

22. The Law Firm of Charles Novins, Esq, P.C. (a/k/a “Law Offices of Charles Novins PC”) has legally defaulted with respect to the following counts of the counterclaims :

COUNT I
DEFAMATION

Charles Novins Esq., P.C. has intentionally published false and defamatory statements to a worldwide audience, regarding Carl R. Osterwald and Yvonne S. Osterwald and Richard “Vince” Lamb.

Charles Novins Esq., P.C. published the statements with actual knowledge of their falsity, or with reckless disregard of their truth or falsity, thereby causing the Counter-Claimants damages including emotional distress, embarrassment, and humiliation.

COUNT II
INVASION OF PRIVACY-FALSE LIGHT

Charles Novins Esq., P.C. has intentionally published false statements to a worldwide audience, regarding Carl R. Osterwald and Yvonne S. Osterwald and Richard “Vince” Lamb that placed the Counter-Claimants in a false light before the public.

The statements published by Charles Novins Esq., P.C. Carl R. Osterwald and Yvonne S. Osterwald are highly offensive to a reasonable person.

Charles Novins Esq., P.C. published the statements with actual knowledge of their falsity, or with reckless disregard of their truth or falsity, thereby causing the Counter-Claimants damages including emotional distress, embarrassment, and humiliation.

Charles Novins Esq., P.C. has also default with respect to the claims of Private Facts, Unreasonable Intrusion, Tortious Interference with Prospective Advantage, and Malicious Abuse of Process asserted in the Counterclaim of Richard "Vince" Lamb.

25. Charles Novins graduated in 1984 from Rutgers University with high honors. He majored in Psychology and minored in philosophy. He graduated law school in 1987 and served as editor-in chief of the law school newspaper. He completed a course in tort law while in school and achieved a grade of a C+ in that subject. He also took three courses in legal research and achieved grades of A, A+, and A- in each course. He passed the NJ Bar Exam and took a Bar review course that included torts. He became a licensed attorney in 1987. He also holds an MBA from Rutgers.
26. Charles Novins brought the lawsuit Novins v. Canon in Ocean County Superior court, alleging that Kevin Canon, Carl Osterwald, defamed him by publishing false and misleading information on the internet in the Usenet group called Alt. Usenet. Kooks.
27. In practice Charles Novins has handled thousands of cases and has amassed over 100 jury trials. He handled sex offender cases while a public defender during the 1990's, and these cases included rape, pedophilia, and child molestation.
28. He knows how to research law as an attorney.

29. He is a sole practitioner and has no other attorneys who use the Usenet while at work.
- His staff assistants also do not use the Usenet.
30. Mr. Novins is not sure if he ever handled a defamation case, but brought the present case *Novins v. Cannon* in February of 2009 in response to an alleged defamatory stating that he hired drug addicts to fulfill legal needs of his clients.
31. Mr. Novins feels he is a good lawyer and has an impressive record of wins in the trials he handled.
32. The Usenet is a subset of the internet, it runs on the internet, and you can make a statement and have it appear in multiple groups through the technique of cross-posting.
33. Exhibit 6 shows a posting that a person, not Mr. Novins, wrote saying Art Deco is Carl Osterwald. It was published on kooks.
34. Carl Osterwald was a very active poster on Usenet and made thousands of posts.
35. Google is not very good about taking down offending posts and Mr. Novins estimated that they ignored about 97% of his requests to remove offending material that concerned him.
36. Exhibit 7 shows a Usenet post to various groups made by John Cook that lists an address for Art Deco of 75 Dudley Street.
37. When someone, not Mr. or Mrs. Osterwald, posted that Mr. Novins' firm hired drug addicts, Mr. Novins claimed that he experienced emotional pain and business effects.
38. Mr. Novins said he didn't like it when he and his staff were being attacked on the Usenet.

39. Mr. Novins has a problem with published items that can have “real world effects.”
40. Exhibit 16 John Cook refers to Art Deco and Mr. Novins responds as altlas bugged.
41. Exhibit 17 Mr. Novins criteria for “fair play” v. “over the line is when a person goes RL or using real names, affecting real world.
42. The connection between the screen name or “handle” of Art Deco being Carl Osterwald turned out to be correct.
43. Exhibit 21. Charles Novins authored the information on page 2 from “That’s right” to “cocksucker”.
44. Exhibit 23. Charles Novins authored the post that begins with “Don’t forget” and ends with “Dateline.”
45. The Usenet is available to anyone in the world who can connect to the internet.
46. Exhibit 34, Charles Novins authored and posted the section that begins “I often” and ends with “Deco”.
47. Exhibit 35, Charles Novins authored and posted the portion beginning with “Fer” and ending with “Bugged”, and also authored and posted “ What kind of trouble is your ass-fuck buddy Art Deco in?”
48. Exhibit 37, Charles Novins wrote and posted “Inquiring minds want to find Art slupp Deco.”
49. Exhibit 41, Charles Novins wrote and posted the sentence that begins “I can’t speak” and ends with “way”, and posted the sentence that begins with “I might” and ends with “far.”
50. Exhibit 43, Charles Novins wrote and posted the sentence that beings “Ditto me. . . ”

51. Exhibit 52, Charles Novins wrote and posted "True info on "Art Deco" is here" and linked it, i.e. married it up, to the name and address of Carl Osterwald; also Charles Novins wrote and posted the sentence beginning with " I am recommending. . ."
52. Charles Novins and Charles Novins, Esq. P.C. filed a complaint in Superior Court of New Jersey on February 13, 2009 sounding in defamation against several parties including Carl R. Osterwald, Kevin Cannon, and Vincent Lamb.
53. Exhibits 80-139 inclusive, Novins admits that he authored and posted the :sig" line, which is the portion of the posting that begins with " Are you and AUK dirtbag" and ends with " Or just post Hate! Whatever!"
54. Exhibit 155: Charles Novins authored and posted this webpage that positively links Carl Osterwald's name with that of "Art Deco."
55. Charles Novins Esq., P.C. defaulted with regard to his answer to the both counts of the counterclaim made by Carl and Yvonne Osterwald in this matter.
56. Counter-Claimant Dr. Richard "Vince" Lamb, Ph.D., is an individual and resident of the state of Michigan.
57. Counter-Claimant Dr. Richard "Vince" Lamb, Ph.D. is a full-time, tenured Biology Professor in the Science Department at Oakland Community College (hereafter "OCC") located in Southfield Michigan.
58. Prior to February 13, 2009 Counter-Claimant Dr. Richard "Vince" Lamb, PhD was a tenure track Biology Professor in the Science Department at Oakland Community College (hereafter "OCC") located in Southfield Michigan.
59. Counter-Claimant Dr. Richard "Vince" Lamb, Ph.D. is married to Kimberly Barnard Lamb, a cognitive psychologist.

60. alt.usenet.kooks ("AUK") is a Usenet group organized as a subtopic under the alternative top-level hierarchy and devoted to the presentation and examination of odd-ball behavior or the debunking strange personalities found on the Usenet.
61. The following are TERMS are commonly used on the Usenet and AUK:
- Article – is a post or message.
- Discussion/Thread – a series of Usenet articles consisting of an initial post and all of the follow-up posts. Google and newsreader software clients organize threads to show responses in a nested style with consistent timestamps, and ">" characters are added to the beginning of each line of the text in each prior posting, thereby allowing users to provide line-by-line or paragraph-by-paragraph response/comments to the previous poster.
- Follow-up/Reply – an article that is posted in response to an original article's subject matter.
- Handle – a username or alias selected by a Usenet participant
- Post – a single message on the Usenet
- Subscribe – the process of selecting and monitoring newsgroups that a Usenet participant considers interesting.
- Spoof - creating an fake e-mail to hide your originating IP address thereby not leaving a viable trail that can be followed (hide your IP).
62. alt.usenet.kooks ("AUK") is a Usenet group organized as a subtopic under the alternative top-level hierarchy and devoted to the presentation and examination of odd-ball behavior or the debunking strange personalities found on the Usenet.
63. alt.usenet.kooks ("AUK") is not a hate group.
64. Dr. Richard "Vince" Lamb, Ph.D. participated in the AUK group by posting under a handle, "Pinku-Sensei," to protect his identity.
65. Plaintiffs participated in the AUK group by posting under a handle "Atlas Bugged," which they explain is a name they chose because of their devotion to the teachings of Ayn Rand (a proponent of the theory of Objectivism). (The username is taken from her book Atlas Shrugged).
66. Dr. Richard "Vince" Lamb, Ph.D. took numerous precautions to prevent other Usenet participants from discovering his real name and other personal information.

67. On September 13, 2007, after hiring a private detective to obtain Dr. Lamb's real name and personal information from Lamb's secret online account, Plaintiffs sent Dr. Lamb an e-mail in which he threatened Lamb with a frivolous law suit to "determine and/or reveal the identity of Novins' online nemesis Roger." Plaintiffs' communication stated that Dr. Lamb would be
 "... served in a few days with a law suit. If you ain't the guy, it isn't going to matter, just go through the motions and you'll be done with it".

68. Due to Dr. Lamb's failure to respond to the Plaintiff's September 13, 2007 threat, Novins proceeded to contact Dr. Lamb's employer Oakland Community College by sending two faxes to the Director of Human Relations on September 17, 2007 and October 3, 2007. In those faxes Plaintiffs identified themselves as an attorney and alleged that Professor Lamb engaged in libelous and criminally harassing activities on USENET. Moreover, those faxes threatened the filing of lawsuits in both federal and state venues. The fax also asked Dr. Lamb's employer to "consider whether or not he [Lamb] may be a liability to the school."

69. Feeling unsatisfied by Dr. Lamb's employer's response, Plaintiffs received a letter from Plaintiffs on October 16, 2007 where Novins indicated that Dr. Lamb had "a chance to avoid being named in a lawsuit [Charles Novins or Charles Novins, Esq., PC] prepared and [was] readying for filing". Novins also indicated that he would not file the lawsuit naming Lamb if, *inter alia*, Lamb provided Novins with "identifying data on various posters who participated in the [June 2007] thread". Plaintiff Charles Novins wanted information on his nemesis Roger. The letter concluded indicating that within two weeks from the date of the letter Lamb would receive a "summons, complaint, and subpoena".

70. On December 24, 2007, at 3:10 P.M., Plaintiffs sent Dr. Lamb an e-mail containing the following threat: You will either help me track down this psychotic vicious troll, or your going to stay on my radar. Naturally, I will instantly file a federal lawsuit with respect to this, and you'll be included, along with the college.

71. Regrettably on January 24, 2009 Dr. Lamb mentioned Plaintiff's online handle "Atlas Bugged" in a USENET posting to which Plaintiffs immediately responded: "Back on my radar. No upside in that for you."

72. Subsequently, Dr. Lamb received a letter at his work address from Plaintiffs wherein Novins refers to the January 24, 2009 posting where Lamb mentioned Novins online handle. In that letter Novins requested *inter alia* that Lamb provide identifying data on Novins' nemesis Roger as well as "various posters who participated in the thread, including all offline communications with them, including headers where e-mails were exchanged." Novins indicated that "information must lead to useful identification or this offer is unavailable." The "offer" Novins' referred to was Novins' offer not to sue Dr. Lamb if Lamb gave Novins the real names of all the handles of the persons on USENET including Novins' nemesis Roger.

73. On February 18, 2009 after filing their complaint and not receiving a response from Dr. Lamb, Plaintiffs faxed a third letter to the Director of Human Relations at Oakland Community College (a named Defendant in their law suit) In that February 18, 2009 fax, Plaintiffs indicated that Dr. Lamb failed to “. . . make any effort to contact me [Charles Novins] at all, and ignored my [Charles Novins] overtures to him” since the fall of 2007. In addition, Plaintiffs requested that Casey release Dr. Lamb’s home address for service.

74. On February 19, 2009, in a follow-up thread, to another USENET poster (going by the handle “John C.”) in a thread entitled “The Lowly Community College Biology Instructor” & Tranny”, Plaintiff indicated that he talked to the Dean of Oakland Community College about Dr. Lamb “several times.” (In that thread, Novins also indicated that his motivation in contacting Lamb’s employer was to get Lamb fired. Plaintiffs made the following statements in that USENET posting: They generally protect Pinky [Dr. Lamb], but now that both have been named in a real deal lawsuit, I expect them to kick him to the curb. I used to work for the gov’mint, and I know the drill. They huddle together and protect their own . . . right up to the minute that they decide your’re a liability. Then, in a heartbeat, they toss you in the lake. Pinky [Dr. Lamb] knows what I mean. Novins further stated that he was preparing an article for publication in several local Michigan newspapers entitled “internet bullies” which would mention Lamb and his employer Oakland Community College.

75. On February 22, 2009, at 5:45 a.m., posted an item on USENET entitled “Kook “Awards” Conclude – Permanently” where Novins indicated that he was engaging in economic warfare with against Dr. Lamb to make “the costs [of defending against Plaintiff’s lawsuit] more than the rent you pay”.

76. On or about March 2, 2009, Plaintiffs posted a message on USENET with the Subject Line “‘Free Speech’ Hypocrites” where he published a link to Dr. Lamb’s employer, Oakland Community College, and further indicated that he would publish Lamb’s home address “next week”. Plaintiff also claimed to have hired an investigator to look into various people on the Usenet (i.e., Usenet users). Novins also indicated that he was considering publishing an article in “Michigan newspapers about the “community” college.” In that March 2, 2009 posting by Plaintiffs they stated that: I would recommend letting Vince’s college know about his AUKtivities. <http://pinkocc.otsolong.com> I think he has friends there, so I’ve had trouble getting their attention, but I think Vince seriously misunderstands how public entities operate. Everyone covers *their own* ass, in the “end.”

77. On or before March 3, 2009, Novins published Lamb’s home and work address and Lamb’s photo on Novins’ Comcast webpage: <http://home.comcast.net/~abcc/BuggedKookPage.htm>. In addition, Novins falsely alleged that Lamb organized and assisted various hate groups so they could avoid prosecution. Lamb as well as other affected codefendants attempted to shut down Novins’ website (i.e., his Comcast webpage) without success.

78. On March 5, 2009, Novins posted a message on the Usenet that his intent in filing plaintiff's February 13, 2009 law suit naming Dr. Lamb was to get Lamb fired from his job.

79. On or about March 9, 2009, Novins posted on USENET and other sites entitled "Contact Pinku!" where he posted Lamb's home address, work address, date of birth and invited others to contact Lamb and his employer Oakland Community College to invade his privacy. In addition, Plaintiff made the following statements online:

The College administrators have confirmed for me that this "professor" posts intimidating, reckless, libelous, and intentionally hateful material under the pseudonym "Pinku-Sensei" here in this newsgroup, and elsewhere. It's his "hobby," I suppose, but he probably needs professional counseling, since he does it in the face of a civil suit I've filed (after being victimized by him) and in the face of being disgraced in his profession and among his peers.

I recommend that anyone libeled or otherwise assaulted by this particular reprobate write him a polite letter asking him to stop, and letting his employers know that he brings shame upon the institution.

I have other confirmed information about him (such as his marriage data and other vitals,) but this info has no legitimate need to be public, and I try to live within civil society, even if Lamb has taken the opposing tact.

80. The following are additional stipulated facts which have been established in this case and are incorporated herein by reference:

EXHIBIT A -- True Copy of Paragraphs 1 thorough 23 of Counterclaim-Plaintiff Carl R. and Yvonne S. Osterwald' April 26, 2009 Answer and Counterclaim deemed admitted by the Hon. Anne E. Thompson, U.S.D.J.

EXHIBIT B – True Copy of Paragraphs 1 thorough 32 of Counterclaim-Plaintiff Richard "Vince" Lamb' June 12, 2009 Answer and Counterclaim deemed admitted by the Hon. Anne E. Thompson, U.S.D.J.

EXHIBIT C – True Copy of August 16, 2010 Sanction Order Entered by Hon. Douglas, U.S.M.J.

EXHIBIT D – True Copy of Counterclaim-Plaintiff Richard "Vince" Lamb' January 28, 2011 L. Civ. R. 56.1 Statement

7. Statement of Damages Claimed:

Osterwald:

The present substantive law of the jurisdiction, New Jersey, does not require specific damages in the case of defamation per se. However, irrespective of the

requirements of the law, Mr. and Ms. Osterwald claim emotional distress, humiliation, embarrassment in the community, and a negative impact to their marital relationship, coupled with the permanency of such postings and their caustic effect on anyone who searched or will search Mr. or Ms. Osterwald's name.

Lamb:

Counterclaim-Plaintiff Richard "Vince" Lamb" counts one and two do not require specific damages in the case of defamation *per se* and false light. With respect to the remaining claims Dr. Lamb seeks damages with respect to attorney fees regarding his abuse of process claim, future lost wages with respect to his intentional interference with contract prospective economic advantage claim and equitable relief (permanent restraining Order) with respect to his claim of derivative tort of criminal harassment pursuant N.J.S.A. 2C:33-4

8. Statement of Legal Issues Presented:

Defamation, defamation *per se*, libel,

For counterclaimant to recover damages from counter-defendant for defamation, counterclaimant must prove by a preponderance of the credible evidence that counter-defendant communicated to someone other than counterclaimant a false and defamatory statement of fact concerning counterclaimant and that counter-defendant had actual knowledge that the statement was false, *or* acted in reckless disregard of its truth or falsity, *or* acted negligently in failing to ascertain the falsity of the statement.

False Light:

To establish false light the counter- plaintiff must prove that the counter-defendant (1) made statements about the counterclaimant (2) to the public that are (3) offensive and (4) false.

Private Facts

For Counterclaim Plaintiff Richard "Vince" Lamb" to prevail on his claim of "private facts" claim (Count Three (3)) he is required to show that Plaintiffs invaded Dr. Lamb's privacy by unreasonable publication of Dr. Lamb's private facts." This "occurs when it is shown that"; (1) the matters revealed were actually private, (2) that dissemination of such facts would be offensive to a reasonable person, and (3) that there is no legitimate interest of the public in being apprised of the facts publicized.

Unreasonable Intrusion

For Counterclaim Plaintiff Richard "Vince" Lamb" to prevail on his claim of unreasonable intrusion upon his seclusion by Plaintiff (Count Four (4)) requires a showing that Plaintiffs: (1) intentionally intruded, physically or otherwise, upon the solitude or seclusion of Dr. Lamb or his private affairs or concerns; and (2) the intrusion would be highly offensive to a reasonable person.

Tortious Interference with Prospective Advantage

For Counterclaim Plaintiff Richard "Vince" Lamb" to prevail on his claim of Tortious Interference with Prospective Advantage (Count Six (6)) he must show that (1) Dr. Lamb had some reasonable expectation of economic advantage; (2) Plaintiffs' actions were malicious in the sense that the harm was inflicted intentionally and Plaintiffs is without justification or excuse; (3) Plaintiffs' interference caused the loss of the prospective gain; and (4) The injury caused Dr. Lamb damage.

Derivative Tort of Criminal Harassment pursuant to N.J.S.A. 2C:33-4

For Counterclaim Plaintiff Richard "Vince" Lamb" to prevail on his claim of Derivative Tort of Criminal Harassment (Count Seven (7)) he must show that Plaintiffs (a) Makes, or causes to be made, a communication or communications anonymously or at extremely inconvenient hours, or in offensively coarse language, or any other manner likely to cause annoyance or alarm; (b) Subjects another to striking, kicking, shoving, or other offensive touching, or threatens to do so; or (c) Engages in any other course of alarming conduct or of repeatedly committed acts with purpose to alarm or seriously annoy such other person.

Malicious Abuse of Process

For Counterclaim Plaintiff Richard "Vince" Lamb to prevail on his claim of Abuse of Process (Count Eight (8)) he must show that Plaintiffs (1) made an illegal, improper, perverted use of the process, a use neither warranted nor authorized by the process; and (2) that the Plaintiffs had an ulterior motive in exercising such illegal, perverted or improper use of the process

Legal Issues, Defenses or Claims to be abandoned: Osterwald – None.

Counterclaim- Plaintiff Richard "Vince" Lamb withdraws Count five (5) (intentional interference with contractual relations) of his June 12, 2009 Counterclaim.

Counterclaim- Plaintiff Richard "Vince" Lamb shall not pursue Count nine (9) (frivolous law suit) instead he shall pursue that claim by motion after trial on the merits.

10. Exhibits:

Counterclaimants Osterwald and Lamb shall jointly refer to each other's exhibits set forth below:

Counterclaimants Osterwald Exhibits

Please note that the numbering of the following exhibits is from the deposition of Charles Novins, and each exhibit has been labeled and matches the references in the deposition. These numbers will carry to the trial exhibits.

Exhibit Novins 6: Usenet Post equating Art Deco to Carl Osterwald.

Exhibit Novins 7: Usenet Post showing counterclaimant's address.

Exhibit Novins 16: Usenet Post describing counterclaimant's sharing of bodily fluids.

Exhibit Novins 17: Usenet Post describing Novins criteria for defamation suit.

Exhibit Novins 21: Usenet Post describing alleging counterclaimant's sucking of dick.

Exhibit Novins 22: Usenet Post by Charles Novins.

Exhibit Novins 23: Usenet Post providing details of address of counter-claimant.

Exhibit Novins 26: Usenet Post by Charles Novins.

Exhibit Novins 27: Usenet Post by Charles Novins.

Exhibit Novins 34: Usenet Post calling counter-claimant a cretin and saying he is motivated by love of a young boy's ass.

Exhibit Novins 35: Usenet Post by Novins to John Cook.

Exhibit Novins 37: Usenet Post by Novins alleging sexual acts by counter-claimant.

Exhibit Novins 41: Usenet Post by Novins providing details of address of counter claimant.

Exhibit Novins 42: Usenet Post by Novins alleging sexual acts by counter-claimant.

Exhibit Novins 43: Usenet Post by Novins providing details of address of counter-claimant.

Exhibit Novins 52: Usenet Post by Novins providing true identification information about counterclaimant.

Exhibit Novins 57: Usenet Post by Novins providing photographic identification about counter-claimant.

Exhibit Novins 59: Usenet Post by Novins providing photographic identification about counter-claimant.

Exhibit Novins 67: Usenet Post by Novins.

Exhibits Novins 80 through and including Novins 139: a total of 59 repetitive Usenet Posts by Novins calling counter-claimant a sexual predator.

Exhibit Novins 155: (Please note this was not marked at the deposition with an orange sticker, although it was used and referenced. It is marked in its header.). Usenet Post by Novins.

Exhibit Novins 156: Screen Capture of www.msnbc.msn.com/id/17601568 linked to and referenced by Novins 59 times in exhibits Novins 80-139.

Exhibit Novins 157: January 15, 2010 letter to Kevin A. Cannon supplied by Mr. Novins in interrogatory answers to Osterwald.

Exhibit Novins 158: Undated letter to Carl Osterwald supplied by Mr. Novins in Osterwald interrogatory answers to Osterwald.

Exhibit Novins 159: DVD video exhibit: partial segment of Dateline MSNBC television program.

Exhibit Novins 160: Original Transcript of the Deposition of Charles Novins taken by Joseph A. Manzo, Esq. on October 13, 2010.

Exhibit Novins 161: "Robert Charles" posting of 9/25/2009 to alt.sex.prostitution.

Exhibit Novins 162: "taxslave" posting of 8/26/2002 to alt.sex.prostitution.

Exhibit Novins 163: "taxslave" posting of 8/30/2002 to alt.sex.prostitution.

Exhibit Novins 164: "taxslave" posting of 8/28/2002 to humanities.philosophy.objectivism.

Exhibit Novins 165: Complaint of Charles Novins, Esq. et al. v. Kevin Cannon as filed in New Jersey Superior Court-Ocean County February 13, 2009, Docket L-705-09.

Exhibit Novins 166: February 22, 2009 10:45 a.m. e-mail between Novins/Cook.

Exhibit Novins 167: March 11, 2009 e-mail between Novins/Cook.

Exhibit Novins 168: April 8, 2009 e-mail between Novins/Cook.

Exhibit Novins 169: April 15, 2009 e-mail between Novins/Cook.

Exhibit Novins 170: April 17, 2009 e-mail between Novins/Cook.

Exhibit Novins 171: April 7, 2009 e-mail between Novins/Cook.

Exhibit Novins 172: February 22, 2009 11:08 p.m. e-mail between Novins/Cook.

COUNTERCLAIMANT LAMB'S EXHIBITS

EXHIBIT LAMB-1 - Plaintiff's February 13, 2009 Complaint and Exhibit A attached thereto (February 13, 2003 USENET Posting "Law Office of Charles Novins hires drug addicts to fill your legal needs") (18 pages)

EXHIBIT LAMB-2 - June 19, 2007 USENET posting entitled "Nomination-Looney Maroon of the Month - Atlas Bugged" in USENET Newsgroup "alt.battlestar-galactica," (3 Pages)

EXHIBIT LAMB-3 - June 25, 2007 (1:32 am) USENET posting entitled "The Rose Doctor relationship" in USENET Newsgroup "rec.arts.drwho," (2 Pages)

EXHIBIT LAMB-4 - June 25, 2007 (7:15 am) USENET posting entitled "The Rose Doctor relationship" in USENET Newsgroup "rec.arts.drwho," (2 Pages)

- EXHIBIT LAMB-5** – June 28, 2007 (12:34 a.m.) USENET posting entitled “The Rose Doctor relationship” in USENET Newsgroup “rec.arts.drwho,” (3 Pages)
- EXHIBIT LAMB-6** – June 28, 2007 (1:05 a.m.) USENET posting entitled “The Rose Doctor relationship” in USENET Newsgroup “rec.arts.drwho,” (3 Pages)
- EXHIBIT LAMB-7** – June 29, 2007 USENET posting entitled “The Rose Doctor relationship” in USENET Newsgroup “rec.arts.drwho,” (4 Pages)
- EXHIBIT LAMB-8** – June 30, 2007 USENET posting entitled “The Rose Doctor relationship” in USENET Newsgroup “rec.arts.drwho,” (6 Pages)
- EXHIBIT LAMB-9** – September 13 2007 e-mail from Atlas Bugged to Richard V. Lamb, subject heading “Atlas Bugged calling!” (1 Page)
- EXHIBIT LAMB-10** – September 17 2007 fax from Charles Novins, Esq. to Gary Casey subject heading “Complaint regarding a member of your faculty, Richard V. Lamb” (3 Pages)
- EXHIBIT LAMB-11** – September 30, 2007 USENET posting entitled “FNVW Announcement – elections, nominations, a Galactic Killfile internment and a CROWNING!” in USENET Newsgroup “alt.usenet.kooks,” (2 Pages)
- EXHIBIT LAMB-12** – October 3, 2007 fax from Charles Novins, Esq. to Gary Casey subject heading “Complaint regarding a member of your faculty, Richard V. Lamb” (2 Pages)
- EXHIBIT LAMB-13** – October 3, 2007 e-mail from Richard V. Lamb to Gary S. Casey, subject heading “Meeting (1 Page)
- EXHIBIT LAMB-14** – October 9, 2007 letter Gary S. Casey to Charles Novins (1 Page)
- EXHIBIT LAMB-15** – October 16, 2007 Letter from Charles Novins to Richard V. Lamb (1 Pages)
- EXHIBIT LAMB-16** – October 24, 2007 e-mail from Richard V. Lamb to Gary S. Casey, subject heading “Meeting (1 Page)
- EXHIBIT LAMB-17** – October 19, 2007 USENET posting entitled “PING PINKU” in USENET Newsgroups “alt.usenet.kooks, alt.fan.art-bell, alt.fucknozzlers” (1 Page)
- EXHIBIT LAMB-18** – December 24, 2007 e-mail from Atlas Bugged to Richard Lamb entitled “Nice Work” (1 Page)
- EXHIBIT LAMB-19** – January 27, 2009 USENET posting entitled “WINNERS! Kooks of the Year, 2008” in USENET Newsgroups “alt.usenet.kooks, alt.fan.art-bell, alt.free.newsservers” (4 Pages)
- EXHIBIT LAMB-20** – January 27, 2009 Letter from Charles Novins to Richard V. Lamb (2 Pages)

EXHIBIT LAMB-21 – February 18, 2009 fax from Charles Novins, Esq. to Gary Casey subject heading “Complaint regarding a member of your faculty, Richard V. Lamb” (2 Pages)

EXHIBIT LAMB-22 – February 18, 2009 Letter from Charles Novins to Richard V. Lamb (1 Pages)

EXHIBIT LAMB-23 – February 18, 2009 USENET posting entitled “PING: Pinku” in USENET Newsgroups “alt.usenet.kooks, alt.fan.art-bell, alt.fucknozzlers” (2 Pages)

EXHIBIT LAMB-24 – February 19, 2009 USENET posting entitled “PING: Pinky-Sue “The Lowly Community College Biology instructor” & Tranny” in USENET Newsgroups “alt.usenet.kooks, alt.fan.art-bell, alt.fucknozzlers, rec.arts.poems, alt.fluff-girl.pinku-sensei, sci.psychology.psychotherapy” (1 Page)

EXHIBIT LAMB-25 – February 22, 2009 USENET posting entitled “Kook” Awards” Conclude - Permanently” in USENET Newsgroups “alt.usenet.kooks, alt.fan.art-bell, alt.fucknozzlers, rec.arts.poems, alt.fluff-girl.pinku-sensei, sci.psychology.psychotherapy” (1 Page)

EXHIBIT LAMB-26 – March 2, 2009 USENET posting entitled “Free Speech” Hypocrites” in USENET Newsgroups “alt.usenet.kooks, alt.fan.art-bell, alt.fucknozzlers” (4 Pages)

EXHIBIT LAMB-27 – March 9, 2009 USENET posting entitled “Contact Pinku! Was: February Ballot” in USENET Newsgroups “alt.usenet.kooks, alt.fan.art-bell, alt.fucknozzlers” (3 Pages)

EXHIBIT LAMB-28 – April 28, 2009 Webpage of Charles Novins “<http://home.comcast.net/~abcc/BuggedKookPage.htm>” (4 Pages)

EXHIBIT LAMB-29 – December 26, 2008 USENET posting entitled “a little gift for kOOKy Karen Anderson, formerly ‘SnooShoe’” in USENET Newsgroups “alt.nuke.the.usa, alt.oj-simpson, alt.usenet.kooks” (1 Page)

EXHIBIT LAMB-30 – December 22, 2008 USENET posting entitled “WINNERS! 2008 AUK Christmas Ballot” in USENET Newsgroups “alt.usenet.kooks” (1 Page)

EXHIBIT LAMB-31 – December 13, 2007 USENET posting entitled “PING: Honest John, #1” in USENET Newsgroups “alt.fan.art-bell, alt.usenet.kooks” (4 Pages)

EXHIBIT LAMB-32 – May 26, 2007 USENET posting entitled “Things on which all Objectives will agree” in USENET Newsgroups “humanities.philisosphy.objectivism” (1 Page)

EXHIBIT LAMB-33 – December 21, 2010 Webpage of Charles Novins “<http://oceancountynjlawyer.com/default.aspx>” (2 Pages)

EXHIBIT LAMB-34 – May 26, 2007 USENET posting entitled “Cyber bully of the year 2007 – cujo de Sockpuppet” in USENET Newsgroups “alt.usenet.kooks” (3 Pages)

EXHIBIT LAMB-35 – March 11, 2008 e-mail from Charles Novins to Rhonda Lee Kirk Subject heading “Should get interesting soon in AUL” (3 Pages)

EXHIBIT LAMB-36 – December 21, 2010 New Jersey Business Entity Status Report “Hawk Investigations, LLC (2 Pages)

EXHIBIT LAMB-37 – December 12, 2010 Webpage of Hawk Investigations “<http://www.hawkinvestigationsservices.com/assign.php>” (2 Pages)

EXHIBIT LAMB-38 – December 30, 2004 USENET posting entitled “” in USENET Newsgroups “alt.fan.art-bell, alt.usenet.kooks” (1 Pages)

11. Additional Discovery:

All Osterwald and Lamb discovery is complete. However, should the Court allow Plaintiffs last minute submissions both counterclaimants shall need additional discovery (i.e. subpoena of Plaintiff’s passport records)

12. Expert Witnesses:

Dr. Richard “Vince” Lamb

13. Fact Witnesses:

For the Osterwalds:

Carl R. Osterwald: Mr. Osterwald is the primary counterclaimant who was defamed by the writings of Charles Novins, and Charles Novins Esq., P.C. He will testify as to his job, marital status, criminal history, marriage, and the Usenet. He will also testify regarding all defamatory and identifying Usenet postings made by Charles Novins regarding him and his family, and will also reference the postings of John Cook, Rhonda Fries, Greg Hall. Mr. Osterwald will also explain some of the actual damages caused by the Novins postings.

Yvonne S. Osterwald: Ms. Osterwald is the wife of Carl Osterwald and is the counterclaimant defamed and placed in false light by Charles Novins, Esq. P.C. She will testify as to her work history, life, marital status, marriage, and the damages the Usenet postings made by Charles Novins and Charles Novins, Esq. P.C. had on her, her relationship with Mr. Osterwald, her reputation, and on her family.

Charles Novins: Mr. Novins is the primary intentional tortfeasor against Mr. and Ms. Osterwald. He will testify as a hostile witness and will be asked about the details of

the Usenet postings he made regarding Carl and Yvonne Osterwald and the posts identifying Mr. Osterwald with his screen name.

John Cook, II: Mr. Cook is a counter-defendant and a person who had extensive phone and e-mail conversations with Charles Novins. He will testify as a rebuttal to the statements of Charles Novins. He can testify regarding the Usenet and internet statements that Mr. Novins made, conversations between he and Novins that specifically relate to Carl and Yvonne S. Osterwald, and the statements made that link the identification of Mr. Osterwald with his screen name.

Kevin Cannon: Mr. Cannon is the lead defendant first sued by Mr. Novins in this matter. He should be dismissed by Mr. Novins as a defendant, prior to the commencement of the trial. Mr. Cannon has direct experience operating a Usenet Server. He will testify about witnessing the defamatory posts and witnessing the identification posts made by Mr. Novins. He will also testify about the effect of these posts.

Dr. Richard "Vince" Lamb: Dr. is a defendant and counterclaimant in this matter. He is a college professor. He will testify about seeing and reading the Osterwald posts and the effect of the posts.

For Lamb:

Dr. Richard "Vince" Lamb: he will testify as to all events alleged in his June 12, 2009 Counterclaim and his January 28, 2011 Declaration.

Dr. Kimberly Barnard: she will testify about seeing and reading internet postings as alleged in her January 28, 2011 Declaration as well as other USENET postings.

Charles Novins: Mr. Novins shall testify as a hostile witness and will be asked about the allegations in Counterclaim-Plaintiff June 12, 2009 Counterclaim.

John Cook, II: Rebuttal witness to the statement of Charles Novins.

Kevin Cannon: he will testify about seeing and reading internet postings as alleged in Dr. Kimberly Barnard' January 28, 2011 Declaration.

Carl R. Osterwald: he will testify about seeing and reading internet postings as alleged in Dr. Kimberly Barnard' January 28, 2011 Declaration.

14. Deposition testimony to be read.

No specific testimony is anticipated to be read as of the pre-trial; however, the deposition of Charles Novins of October 13, 2010 may be referenced or read for

impeachment and/or substantive evidence as permitted by the rules of evidence, depending upon Mr. Novins' answers to direct examination questions.

16. In Limine Motions

Motion in Limine to designate Dr. Richard "Vince" Lamb as an Expert

Plaintiff Richard "Vince" Lamb and Carl R. and Yvonne Osterwald reserve the right to submit a Motion in Limine should Plaintiffs submit for consideration any witnesses, testimony, defense or exhibits not previously provided to the parties in their pleadings, Rule 26 Disclosures and discovery responses. In addition, Plaintiff Richard "Vince" Lamb and Carl R. and Yvonne Osterwald reserve the right to submit a Motion in Limine and/or object should Plaintiffs submit for consideration any witnesses, testimony, defense or exhibits in support of issues that have already been determined in favor of Mr. Lamb, Mr. Osterwald and Mrs. Osterwald and/or against the Plaintiffs.

17. Bifurcation:

The issues of liability and damages shall be tried separately with respect to the default counterclaim of Osterwald against Charles Novins, Esq., P.C.

The issues of liability and damages shall be tried together with respect to the counterclaim of Osterwald against Charles Novins, individually.

The issues of liability and damages shall be tried separately with respect to the default counterclaim of Lamb against Charles Novins, Esq., P.C.

Subject to a Motion to Bifurcate, Counterclaim- Plaintiff Richard "Vince" Lamb and Carl R. and Yvonne Osterwald will make a joint application requesting that the issues of liability and damages be tried separately with respect to the counts one and two

of both counterclaim' Counterclaim and Count three (3) (Private Facts), Count Four (Unreasonable Intrusion), Count Six (Tortious Interference with Prospective Advantage), Count Seven (Derivative Tort of Criminal Harassment), and Count Eight (Abuse of Process) of Dr. Lamb's Counterclaim.

18. Estimated Length of Trial:

Counterclaimants Carl Osterwald and Yvonne S. Osterwald estimate that their case in chief will take three days, excluding jury selection and any pre-trial motions. The trial is scheduled to begin on the assigned date of June 1, 2011.

Counterclaim- Plaintiff Richard "Vince" Lamb estimate that their case in chief will take three days, excluding jury selection and any pre-trial motions. The trial is scheduled to begin on the assigned date of June 1, 2011.

CONCLUDING CERTIFICATION

We hereby certify by the affixing of our signatures to this short form Joint Final Pretrial Order that it reflects the efforts of all counsel and that we have carefully and completely reviewed all parts of this order prior to its submission to the Court. The parties are reminded that they must amend the Pretrial Order additional witnesses or exhibits. Further, it is acknowledged that amendments to the Pretrial Order will not be permitted except where the Court determines that manifest injustice would result if the amendment is not allowed.

Attorneys for Plaintiff(s):

Attorneys for Defendant(s):

Entry of the foregoing Joint Final Pretrial Order is hereby APPROVED this _____ day of _____, 2011.

Resent. 5/27/11
UNITED STATES MAGISTRATE JUDGE

Exhibit

A

FIFTEENTH SEPARATE DEFENSE

The Complaint is barred, in whole or in part, to the extent that Plaintiffs' alleged damages were caused by and/or arose out of negligent conduct by the Plaintiffs.

SIXTEENTH SEPARATE DEFENSE

The Complaint is barred, in whole or in part, by the economic loss doctrine.

COUNTERCLAIM

Counter-claimants Carl R. Osterwald and Yvonne S. Osterwald ("Counter-Claimants") hereby allege as follows:

PARTIES

1. Counter-Claimant Carl R. Osterwald is an individual whose principal address is 75 S. Dudley St. Lakewood, Colorado 80226.
2. Counter-Claimant Yvonne S. Osterwald is an individual whose principal address is 75 S. Dudley St. Lakewood, Colorado 80226.
3. Counter-Claimants Carl R. and Yvonne S. Osterwald are husband and wife and were married in a civil ceremony on June 21, 1980.
4. Counter-Claimants, upon information and belief, and on that basis allege that Plaintiff and Counter-Defendant Charles Novins

is an individual and licensed attorney living in the State of New Jersey.

5. Counter-Claimants, upon information and belief, and on that basis allege that Plaintiff and Counter-Defendant Charles Novins, Esq., P.C. is a professional corporation organized under the laws of the State of New Jersey with its principal place of business in Ocean County New Jersey.

6. John and Jane Does (1-100) are fictitious named identities of persons, identities unknown, who acted, assisted, and/or participated in the defamation of the Counter-Claimants.

7. ABC Corporation (1-10) are fictitious named identities of corporations, identities unknown, who acted, assisted, and/or participated in the defamation of the Counter-Claimants.

JURISDICTION AND VENUE

8. This Court has personal jurisdiction over the identified Plaintiffs and Counter-Defendants all of whom either do business in or reside in the State of New Jersey, County of Ocean.

FACTS COMMON TO ALL COUNTER-CLAIMS

9. Usenet is the oldest system of organized bulletin boards for the Internet and dates back to the early 1980's.

10. It is organized as a network of linked Usenet servers which store and distribute posts written by people.

11. Posters to the servers use client software to upload messages, photos, or other data to the newsgroups.
12. The post header appears on each post and contains, among other things, information regarding the author of the post.
13. Posters can post messages under their actual name or assume a fictitious name.
14. Charles Novins either as an individual or on behalf of Charles Novins, ESQ., P.C. has been associated with or has used the posting names or profiles of Charles Novins <taxslave@free-market.net>; Robert Charles <taxslave@free-market.net>; Atlas Bugged <atlasbuggedbyspam@gmail.com>; NewParadigmLawfirm <cnjlaw@gmail.com>; The Atlas Bugged Experience; and Charles Novins.
15. Charles Novins either as an individual or on behalf of Charles Novins, Esq., P.C., or using posting names posted to various newsgroups in the Usenet system including alt.sex.prostitution, alt.usenet.kooks, and humanities.philosophy.objectivism.
16. John C. is a posting name used by an unknown person(s) or corporation(s) who made posts to the Usenet system.
17. Gregory Hall is posting name used by an unknown person(s) or corporation(s) who made posts to the Usenet system.

18. Art Deco is a posting name used by the Counter-Claimant Carl R. Osterwald to make posts to the Usenet system.
19. Carl R. Osterwald lives in Lakewood, Colorado, and is employed in Golden, Colorado.
20. On February 10, 2009 a post from one Gregory Hall referred to Art Deco as the "pedo" Art Deco, and asks a "John C." for incriminating information for use in compiling a pedophile list.
21. On February 11, 2009, Charles Novins, using the posting name atlas bugged <atlasbuggedbyspam@gmail.com>, asked John C. for any information he has on "Colorado Carl" to assist with his process service, and repeated and republished the prior post of Mr. Hall's from February, 10, 2009.
22. On February 11, 2009, "John C." published two town addresses for "Carl O." - one in Golden, Colorado, and one in Lakewood, Colorado. John C. also published the following:

I suspect that he lived with his wife Yvonne and daughter Katy Lee at the Lakewood address until she caught him in bed with a couple of the "Gay teens" from the City Park, so now he lives at the Golden, Colorado address where he shares his bed with "Who Knows", now.... Being a Faggot, Deco hates wimmins and thus hated his new female boss at his "Gravy Train" gov't. job. He couldn't hold his tongue very long as it was always covered with white teen boy jizz and started "Bad-Mouthing" his new female boss on the newsgroup 'alt.rhode_island' and she was tipped-off by Phineas Puddleduck and the rest is history. Details in the e-mail !!

23. On February 11, 2009 Charles Novins, using the posting name atlas bugged <atlasbuggedbyspam@gmail.com>, reposted the February 11, 2009 comments by John C. on several newsgroups, thereby reaching a worldwide audience, and publically thanked John C. multiple times for his efforts, citations, and posts.

CLAIMS FOR RELIEF

COUNT I
DEFAMATION

24. The Counter-Claimants reallege and reaffirm the preceding allegations as if fully set forth herein.

25. The Plaintiffs and Counter-Defendants, John and Jane Does, and ABC Corporation have intentionally published false and defamatory statements to a worldwide audience, regarding Carl R. Osterwald and Yvonne S. Osterwald.

26. The Plaintiffs and Counter-Defendants, John and Jane Does, and ABC Corporation published the statements with actual knowledge of their falsity, or with reckless disregard of their truth or falsity, thereby causing the Counter-Claimants damages including emotional distress, embarrassment, and humiliation.

Exhibit

B

instances of damaging libel regarding Plaintiff's law firm" and instances of libel regarding the Plaintiff being a "person of ill repute" are not actionable because they are in whole or in part true.

NINETEENTH SEPARATE DEFENSE

The alleged damages to the Plaintiffs, if any, were caused as a result of Plaintiffs' failure to exercise reasonable and ordinary care, causation or vigilance.

COUNTERCLAIM

Counter-Claimant Richard "Vince" Lamb ("Counter-Claimant" or "Lamb"), by way of counter-claim against Plaintiffs, says:

PARTIES

1. Counter-Claimant Richard "Vince" Lamb is an individual and resident of the State of Michigan and is on a tenure track to be a tenured college Professor at a community college in the state of Michigan.

2. Plaintiff Novins, upon information and belief, is a resident of County of Ocean, New Jersey, and a licensed member of the bar of New Jersey. Novins has been associated with or has used the usernames or profiles of Charles Novins <taxslave@free-market.net>; Robert Charles <taxslave@free-market.net>; NewParadigmLawfirm

cnjlaw@gmail.com, The Altas Bugged Experience; and Charles Novins.

3. On information and belief, Plaintiff Novins is an attorney that believes he is not "limited" by the New Jersey Court Rules. As he explained in a recent Usenet posting:

Here's the thing, when you're the *best* at what you do - you are creative, and alternatives are limited only by your imagination, abilities, and tools, not by the Court Rules.

The paint-by-numbers lawyers get clobbered by me, even when my facts are sub-ideal.

FACTS COMMON TO ALL COUNTER-CLAIMS

4. On information and belief, "Rodger" is Plaintiff Novins' Usenet nemesis and an unknown individual (or individuals) who appear to have had a long standing dispute with Plaintiff Novins and who has numerous handles and e-mail addresses associated with him (or her or them) such as "Dorkless Von Heinybeiter" and "Lio Convoy".

5. On information and belief, Gregory Hall is an unknown individual who appears to be an online ally of Plaintiff Novins or an ally of another username or profile used by Plaintiff Novins. Gregory Hall frequently posts

messages in support of Charles Novins on various Usenet newsgroups.

6. Google Technology Inc. (hereafter "Google") is a corporation organized under the laws of the state of California with offices located at Mountain View, California.

7. The Usenet is a portmanteau of "user" and "network" which predates the Internet and is a worldwide distributed discussion system where subscribers (using special news reading software) can read and post public messages either under their own names or under assumed fictitious names to one or more hierarchical categories, known as "newsgroups." The terminology related to Usenet users can be a bit confusing to the uninitiated; the following are TERMS commonly used on the Usenet:

Article - is a post or message.

Discussion/Thread - a series of Usenet articles consisting of an initial post and all of the follow-up posts. Google and newsreader software clients organize threads to show responses in a nested style with consistent timestamps and ">" characters are added to the beginning of

each line of the text in each prior posting allowing users to provide line-by-line or paragraph-by-paragraph response/comments to the previous poster.

Follow-up/Reply - an article that is posted in response to an original article's subject matter.

Handle - a username or alias selected by a Usenet participant

Post - a single message on the Usenet

Subscribe - the process of selecting and monitoring newsgroups that a Usenet participant considers interesting.

8. The Usenet is organized hierarchically into several top-level newsgroup hierarchies (the "Big-8"). Some popular examples are: alt (alternative newsgroups - typically newsgroups devoted to offbeat discussions of alternative ways of looking at things), rec (recreational and hobbies), sci (science related newsgroups) and misc (miscellaneous grab-bag category). Each top-level newsgroup is appended by a "dot" to indicate a link to one or more subcategory news groups. For example: misc.jobs and misc.forsale.sites are newsgroups devoted to job seekers or various items for sale.

9. alt.usenet.kooks ("AUK") is a Usenet group organized as a subtopic under the alternative top-level hierarchy and devoted to the presentation and examination of odd-ball behavior or debunking strange personalities found on the Usenet. According to the AUK FAQ (frequently asked questions), the AUK newsgroup is for the discovery and discussion of Kooks on Usenet and the Internet. These individuals are known technically as "net.kooks." According to the AUK FAQ a net.kooks is:

If you post uniquely strange, preferably incomprehensible articles, or you manifest a persistent, extreme, and somewhat bizarre obsession, you just might be a net.kook. And more.

It is important to note the subtle distinction between a net.kook, a net.cretin, a clueless newbie, troll, or garden-variety @\$\$hole. The newbie, one hopes, can acquire a clue on the installment plan even if he can't afford to buy one for cash; the cretin is merely stupid and/or irritating; the troll makes a fool out of himself by making a fool out of you, the @\$\$hole is, well, simply that. But a TRUE net.kook has a special fascination derived from his/her/its utter ineffability. Their behavior is irrational, if not downright weird, but they are seldom merely boring.

It is not considered appropriate to nominate clueless newbies, trolls, or longwinded spambrains as net.kooks. It is acceptable to nominate net.cretins, or simply to present them, without nomination, for whatever minor amusement value they may have; but the real focus here is on net.kooks in all their raging, indomitable glory.

Important Disclaimer: the fact that someone has been proclaimed a net.kook does not imply any psychological diagnosis in and of itself. A net.kook may or may not be clinically insane; that is not the concern of the AUK audience. We hope.

10. AUK Awards are a suite of awards and titles or imaginary offices awarded to individuals who exhibit the above described behavior. Chief among them is the "Kook of the Month award." The Kook of the Month Award is the result of a monthly vote tally of all participants in the AUK group and the vote is tabulated by a group member holding the title "Friendly Neighborhood Vote Wrangler" (hereafter "FNVW").

11. Google Search Engine is a very well-known and popular Internet search engine which also, *inter alia*, provides access to one of the most frequently used means of accessing the Usenet via their site "Google Groups". Google also provides the ability to search newsgroups via Google's "New Group Archives", a search engine which is the largest collection of indexed Usenet newsgroup archives, including posts just hours old to posts dating back to May 12, 1981. In addition, Google Groups contains a Query language - a sophisticated and well-documented language which allows all standard types of searches using Boolean searches (AND, OR, and NOT) as well as phrase searching. Google Group websites are located at groups.Google.com. On information and belief, a user who believes that he has

been libeled may at any time send an e-mail to the address groups-abuse@google.com describing the abuse and ask that the libelous material be removed. Google provides this information in each posting on the Usenet. For example, this information is prominently displayed on page one (1) of Exhibit A attached to the Plaintiffs' Complaint, in the header information, line 15, labeled "X-Complaints-To: groups-abuse@google.com".

12. On or between June 17, 2007 to June 19, 2009, Counter-Claimant Lamb held the title "Friendly Neighborhood Vote Wrangler" (hereafter "FNVW") on AUK and encountered Plaintiff Charles Novins appearing under the name or handle "Atlas Bugged" on AUK. On information and belief, Novins appeared to be having an online dispute with Novin's nemesis "Roger" who appeared on AUK with numerous handles such as "Dorkless Von Heinybiter" and "Lio Convoy". On information and belief, the dispute between Plaintiff Novins and Roger appeared to have carried over from Novin's home newsgroup, alt.battlestar.galatica. At the time period set forth above, Roger attempted to nominate Plaintiff Novins for the Kook of the Month Award under one of Rodger's identities "Dorkless Von Heinybiter", and attempted to second Novin's nomination under another handle

"Lio Convoy". Counter-Claimant Lamb refused to nominate Plaintiff Novins for a Kook award due to the lack of then existing evidence and due to Lamb's finding that the nomination was based upon multiple nominations by the same user (Roger).

13. On June 22, 2007, Plaintiff Novins claimed that Counter-Claimant Lamb had declared Roger a Kook. Counter-Claimant Lamb responded by indicating he did not declare Roger a Kook. In response, Plaintiff Novins posted additional postings on AUK on June 25, 2007, June 28, 2007, June 29, 2007 and June 30, 2007 wherein he indicated that Lamb must provide Novins with information on the identity of Roger or else "I'll probably file this week. I am an attorney". Counter-Claimant Lamb ended communication with Plaintiff Novins after this encounter.

14. At some point after September 30, 2007, Counter-Claimant Lamb read a September 13, 2007 e-mail from Charles Novins and a September 28, 2007 e-mail from the Oakland Community College Director of Human Resources (Counter-Claimant's employer). The September 13, 2007 e-mail from Plaintiff Novins originated from the e-mail address atlasbugged@gmail.com and contained a subject line: "Atlas

Bugged calling!" The message was sent at 4:44 a.m. 'in the morning. In a cryptic matter, Plaintiff Novins indicated that he was or was not Charles Novins. On information and belief, the stated purpose of the September 13, 2007 e-mail was to force Lamb to determine and/or reveal the identity of Roger. In that e-mail Novins indicated that Defendant Lamb would be

"... served in a few days with a law suit. If you ain't the guy, it isn't going to matter, just go through the motions and you'll be done with it".

15. A September 28, 2007 e-mail from the Oakland Community College Human Resource Director to Lamb was prompted in response to a September 17, 2007 fax Charles Novins sent under his law firm's letterhead to that Human Resource Director.

16. Counter-Claimant Lamb never provided Plaintiff Charles Novins any personal information such as the name of his employer or work address. Upon information and belief Plaintiff Novins or Novins PC hired a private investigator (or other individual or corporation) to obtain private facts about Lamb.

17. On or about October 3, 2007, Mr. Novins sent the Human Resource Director a second fax wherein he threatened and insulted the Director for not responding to him and threatened a law suit against Oakland Community College unless the Director complied with Novins's demands. Plaintiffs sought personal information on Lamb as well as information leading to identify of Novin's nemesis Rodger.

18. On or about October 16, 2007 Plaintiff Novins sent a letter to Lamb's work address indicating that he had spoken to the personnel department at Oakland Community College. In that letter Novins indicated that he was giving Lamb "a chance to avoid being named in a lawsuit [Novins or Novins PC] prepared and [was] readying for filing". Novins also indicated that he would not file the lawsuit naming Lamb if, *inter alia*, Lamb provided Novins with "identifying data on various posters who participated in the [June 2007] thread". On information and belief, Novins wanted information on his nemesis Rodger. The letter concluded indicating that within two weeks from the date of the letter Lamb would receive a "summons, complaint, and subpoena".

19. On October 19, 2007, Plaintiff Novins posted to the Usenet and bragged about reporting Counter-Claimant Lamb to his employer and that he was about to serve process on Lamb.

20. On December 24, 2007, at 3:10 P.M., Novins sent Lamb an e-mail containing the following threat:

You will either help me track down this psychotic vicious troll, or your going to stay on my radar.

Naturally, I will instantly file a federal lawsuit with respect to this, and you'll be included, along with the college.

Counter-Claimant Lamb did not take any action with respect to that threat.

21. On January 24, 2009, Counter-Claimant Lamb, as FNVW for AUK and on behalf of another Usenet user, posted a message entitled "WINNERS! Kook of the Year, 2008". That posting was the yearly nominations for awards for AUK. On information and belief, in that thread a nomination was made for Novins handle "Atlas Bugged's" (not the handle or name "Charles Novins"). The nomination was likely prompted because of Novin's obsession with the use of the notlong.com link as a candidate for "the kooksite of the year" award. Novins handle only received one vote and did not win the award.

22. On or about January 27, 2009 Plaintiff Novins posted a reply message on AUK to Lamb's January 24, 2009 thread.

Pinku, leave my handle out of your posts, and don't mention me ever in your ridiculous "awards."

So far, by ignoring me completely, you've displayed a smattering of brains unlike other AUKtards.

If I see my handle in any post made by you, there will be consequences, as there will for even this one.

Back on my radar. No upside in that for you.

23. After January 27, 2009, Lamb received a letter at his work address from Novins wherein Novins refers to the January 24, 2009 posting on AUK by Lamb. In that letter Novins requested *inter alia* that Lamb provide identifying data on Novins' nemesis Roger as well as "various posters who participated in the thread, "including all offline communications with them, including headers where e-mails where exchanged." Novins indicated that "information must lead to useful identification or this offer is unavailable." The "offer" Novins' referred to was Novins' offer not to sue Lamb if Lamb gave Novins the real names of all the handles of the persons on AUK including Novins' nemesis Roger. Moreover, on information and belief, Novins also demanded complete editorial control over the content of all discussion on AUK.

24. On February 18, 2009, Novins contacted the Oakland Community College Director of Human Resources and indicated that a lawsuit was about to be filed. On that same date Plaintiff Novins posted a message on AUK entitled "PING: Pinku." In that post, Plaintiff Novins invited Lamb to call him to discuss what he referred as the pending lawsuit. Later, in a follow-up thread, Novins indicated that he talked to the Dean of Oakland Community College about Lamb "several times." In that thread, Novins also indicated that his motivation in contacting Lamb's employer was to get Lamb fired. Novins further stated that he was preparing an article for publication in several local Michigan newspapers entitled "internet bullies" which would mention Lamb and Oakland Community College.

25. On February 19, 2009, Novins posted on AUK, in a thread entitled "The Lowly Community College Biology Instructor" & Tranny "indicating that he talked to Lamb's employers several times and further indicated that he, Novins, might publish something in the local Michigan newspapers on the topic of "Internet bullies" which would refer to Lamb and his employer. The Plaintiffs' reference to "Tranny" is intended to convey the false impression that this Defendant is a transvestite.

26. On February 22, 2009, Novins demanded that the AUK awards discontinue and that he was engaging in economic warfare with against AUK to make "the costs more than the rent you pay".

27. On or about March 2, 2009, Plaintiff Novins posted a message on AUK with the Subject Line "'Free Speech' Hypocrites" where he published a link to Lamb's employer, Oakland Community College, and further indicated that he would publish Lamb's home address "next week". Novins also indicated that he was considering publishing an article in "Michigan newspapers about the "community" college.

28. On Sunday February 22, 2009, at 5:45 a.m., Novins posted an item on AUK entitled "'Kook Award" Conclude - Permanently" where he suggests that his motivation is economic warfare.

29. On March 2, 2009, Novins posted a message again on the Usenet threatening to go to the Michigan newspapers to attempt to put pressure on Oakland Community College to fire Lamb. On that same date, Novins posted a message on

AUK entitled "Free Speech" Hypocrites", wherein he claimed to have hired an investigator to look into various people on the Usenet (i.e., Usenet users). In that posting Novins posted Lamb's home address twice.

30. On or before March 3, 2009, Novins published Lamb's home and work address and Lamb's photo on Novins' Comcast webpage:
<http://home.comcast.net/~abcc/BuggedKookPage.htm>. In addition, Novins falsely alleged that Lamb organized and assisted various hate groups so they could avoid prosecution. Lamb as well as other affected co-defendants have attempted to shut down Novins' website (i.e., his Comcast webpage) without success.

31. On March 5, 2009, Novins posted a message on the Usenet that his intent in filing the law suit is to get Lamb fired from his job.

32. On or about March 9, 2009, Novins posted on AUK and other sites entitled "Contact Pinku!" where he posted Lamb's home address, work address, date of birth and invited others to contact Lamb and his employer Oakland Community College to invade his privacy.

Exhibit

C

LAW OFFICE OF DENNIS J. DUNCAN, LLC
599 BLOOMFIELD AVENUE
BLOOMFIELD, NEW JERSEY 07003
PH: (973) 743-7100 FAX: (973) 743-7101
ATTORNEYS FOR DEFENDANT,
RICHARD "VINCE" LAMB

RECEIVED

AUG 16 2010

AT 8:30 M
WILLIAM T. WALSH
CLERK

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY - TRENTON

CHARLES NOVINS, ESQ. P.C. and
CHARLES NOVINS, Personally,

Plaintiffs,
v.

Kevin A. Cannon, et al.

Defendants

Civil Action No. 09-CV-5354-AET-DEA

**ORDER SANCTIONING
PLAINTIFFS FOR NOT
COMPLYING WITH Fed. R. Civ.
P. 26(g)**

ORAL ARGUMENT REQUESTED

THIS MATTER having been opening by the Court by Dennis J. Duncan, Esq., attorney for Counterclaimant Richard Vince Lamb, upon the application for an Order sanctioning pursuant to Fed. R. Civ. P. 26(g), and the Court having considered the papers in support of and in opposition to the motion, and the arguments of counsel, ~~and no~~ ^{and no} ~~opposition having been submitted;~~ ^{and having} ~~placed its findings of law on the record on~~ ^{placed its findings of law on the record on} ~~2010, or having issued a written~~ ^{2010, or having issued a written} ~~opinion with respect thereto dated and filed on~~ ^{opinion with respect thereto dated and filed on} 2010, and for good cause shown:

IT IS on this August 16 day of 2010,

ORDERED that plaintiffs Charles Novins, Esq., P.C. and Charles Novins, personally are hereby

(1) Prohibited from claiming in any pleading that Lamb posted or republished any defamatory statements or that Lamb any alias which he used to republished

defamatory statements, or that Lamb somehow assisted other defendants or unknown others in republishing the document attached as Exhibit A to plaintiffs' February 13, 2009 complaint;

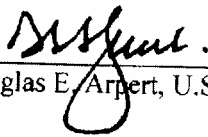
(2) Prohibited from claiming in any pleading that their law firm suffered monetary damages as a result of the document attached as Exhibit A to the complaint;

(3) Prohibited from claiming in any pleading that Lamb is part of a hate group and/or that he organized a hate group; and

(4) Prohibited from claiming in any pleading that there are online postings which prove that Lamb utilizes one or more aliases to commit libel; and

IT IS FUTHER ORDER that Counterclaimant Lamb ^{may} shall submit an affidavit pursuant to *L. Civ. R. 54.2* detailing legal services and expense incurred with respect to this motion within thirty (30) days of this Order; and

~~**IT IS FUTHER ORDER** that plaintiffs shall pay Counterclaimant Lamb's legal fees and expense in connection with this motion.~~



Douglas E. Arpert, U.S.M.J.

Exhibit
D

LAW OFFICE OF DENNIS J. DUNCAN, LLC
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599 BLOOMFIELD AVENUE
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PH: (973) 743-7100 FAX: (973) 743-7101
ATTORNEY FOR DEFENDANT,
RICHARD "VINCE" LAMB

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY - TRENTON**

CHARLES NOVINS, ESQ. P.C. and	:	Civil Action No. 09-CV-5354-AET-DEA
CHARLES NOVINS, Personally,	:	
	:	
	:	
Plaintiffs,	:	
v.	:	Statement of Material Facts
	:	Not in Dispute <i>L. Civ. R. 56.1</i>
	:	
Kevin A. Cannon, et al.	:	
	:	
Defendants	:	
	:	
	:	RETURNABLE: February 22, 2011
	:	ORAL ARGUMENT REQUESTED

DR. LAMB'S *L. Civ. R. 56.1* STATEMENT

PARTIES AND GENERAL BACKGROUND

1. Defendant and Counter-Claimant Richard “Vince” Lamb (hereinafter “Dr. Lamb”) is an individual and resident of the State of Michigan and a tenured college Professor at Oakland Community College (doctorate in Biology), a community college located in the state of Michigan (December 23, 2010 Declaration of Richard “Vince” Lamb¹ ¶ 3).
2. Defendant Counterclaimants Carl R. Osterwald and Yvonne S. Osterwald are a married couple whose principle address is 75 S. Dudley Street, Lakewood, Colorado 80226 (Osterwalds Counterclaim ¶¶ 1-3 (Deemed Admitted²); docket item no. 1-9).
3. Defendant Kevin Cannon is a resident of New York State (See. Cannon Civil Case Information Statement; docket item no. 1-8).
4. Plaintiff and Counter-Defendant Charles Novins is an individual and licensed attorney living in the State of New Jersey (Osterwalds Counterclaim ¶ 4 (Deemed Admitted³), Lamb Counterclaim ¶ 2 (DA); docket items nos. 1-9 and 1-13).
5. Plaintiff and Counter-Defendant Charles Novins, Esq., P.C. a/k/a Law Offices of Charles Novins PC⁴ (hereinafter “Charles Novins, P.C.”) is a professional corporation organized under the laws of the state of New Jersey with its principal place of business in Ocean County New Jersey. (Osterwalds Counterclaim ¶¶ 4-5 (DA), Lamb

¹ Hereinafter reference to this document shall be cited as “Lamb Decl. ¶ __, Exh. __”.

² Pursuant to the Court’s Order and Opinion of September 2, 2010 Paragraphs 1 thorough 32 of Dr. Lamb’s Counterclaim are deemed admitted. Hereinafter reference shall be abbreviated “DA.”

³ Pursuant to the Court’s Order and Opinion of September 2, 2010 Paragraphs 1 thorough 19 of the Osterwald’s Counterclaim are deemed admitted. Hereinafter reference shall be abbreviated “DA.”

⁴ According to the statement and documents provided to Defendant Kevin Cannon on January 16, 2010 in response to Interrogatory numbers 24 and 25, the actual registered name of corporate Plaintiff “Charles Novins, Esq., P.C.” is the “Law Offices of Charles Novins PC” and Plaintiff indicates that he “incorporated” the firm on July 7, 2007 and the firm was first doing business as a sole proprietor as of approximately February 1, 2007.

Counterclaim ¶ 5(DA); docket items nos. 1-9 and 1-13; January 28, 2011 Declaration of Dennis Duncan⁵ ¶ 1 *(FN#1), Exh. A).

6. Plaintiffs and Counter-Defendants Charles Novins (hereinafter "Plaintiffs or "Novins") is an attorney that believes he is not "limited" by the New Jersey Court Rules. As he explained in a recent Usenet posting:

Here's the thing, when you're the *best* at what you do - you are creative, and alternatives are limited only by your imagination, abilities, and tools, not by the Court Rules.

The paint-by-numbers lawyers get clobbered by me, even when my facts are sub-ideal.

(Osterwalds Counterclaim ¶ 1-3(DA); docket item no. 1-9).

7. Plaintiffs are an attorney and a law firm that the hosts, owners, operators or otherwise maintains a website at <http://oceancountynjlawyer.com> which states that "... the quantity of genuinely ethical and talented lawyers is small." (See. Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB-65 (under heading "Free Consultation Ease of Communication"))

8. Plaintiffs made the following statement on USENET on or about January 16, 2008 regarding judges:

I am only awed by them in the sense of how completely fictional they are. I see pro-se litigants in court who behave with grave deference to the judge, as if the judge is a distinguished scholar, a philosopher of justice, or a handmaiden to diety.

The worst, as you know, are perverts, drunks, and incompetents, and form the majority. The best are just decent, average-at-best attorneys looking for a secure, low-paid gig. Even the latter have an agenda that only occasionally coincides with justice.

(See. Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB-68-69)

9. Kathleen DeFeis is a paralegal for the Law Offices of Charles Novins PC. (See. Duncan Decl. 62-1 ¶ 13, Exh. J)

⁵ Hereinafter reference to this document shall be cited as "Duncan Decl. 62-1 ¶ __, Exh. ____".

10. Rebecca “Louisa” Sullivan is the former office manager of the Law Offices of Charles Novins PC (See. Duncan Decl. 62-1 ¶ 13, Exh. H); (See. Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB-68-69; Deposition Transcript of October 13, 2010 Deposition of Charles Novins)

11. Plaintiffs made the following statement on USENET on May 27, 2007 regarding his office staff:

I got two hot secretaries. Call my number and listen to Louisa's voice, it's like a 900 number. And Edna's no slouch.

The two of them don't make love in my office on the reception desk. Yet. But it's only a matter of time.

(See. Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB-64)

12. Sgt. James A. Pero (Retired) is associated with Hawk Investigations, LLC, an independent licensed private investigator who “frequently does contract work for the Law Offices of Charles Novins, Esq. PC” and was hired in connection with the instant lawsuit. (See. Duncan Decl. 62-1 ¶ 13, Exh. J and ¶ 12, Exh. E * LAMB-112)

13. Hawk Investigation, LLC is a corporation that the hosts, owners, operators or otherwise maintains a website at <http://hawkinvestigationsservices.com>, that website states that Hawk provide “an array of services geared towards helping you satisfy your ‘need to know’ . . .” Id. at ¶ 12, Exh. E * LAMB-112) Among the Investigative Services offered by Hawk are, background check, credit history check, GPS tracking, neighborhood canvass, person locate, and surveillance. Id. at ¶ 12, Exh. E * LAMB-114)

14. Google, Inc. is a corporation organized under the laws of the state of Delaware and was named in the caption of the Plaintiff's lawsuit but not mentioned in the complaint. (docket item no. **1-6**) On or after April 8, 2009 the Plaintiffs executed a stipulation of Dismissal dismissing defendant Google, Inc. with prejudice and without costs. (See. Duncan Decl. 62-1 ¶ 4, Exh. C) Prior to entering into that stipulation (March through April 2009) with Google Plaintiffs had a series of e-mail communications with Adam Barea, a litigation counsel with Google where the instant lawsuit was discussed (See. Duncan Decl. 62-1 ¶ 4, Exh. B) A review of those e-mail communications reveals that Plaintiffs failed to request that Google provide the identify or contact information, IP address or true name of the account holder: *kevin.cannon@gmail.com*⁶ or any other identifying information. Id.

15. "Rodger" is Plaintiff Novins' Usenet nemesis and an unknown individual (or individuals) who appear to have had a long standing dispute with Plaintiff Novins and who has numerous handles and e-mail addresses associated with him (or her or them) such as Dorkless Von Heinybeiter" and "Lio Convoy". (Lamb Counterclaim ¶ 4 (DA); docket item no.**1-13**).

16. Gregory Hall is an unknown individual who appears to be an online ally of Plaintiff Novins or an ally of another username or profile used by Plaintiff Novins. Gregory Hall frequently posts messages in support of Charles Novins on various Usenet newsgroups. (Lamb Counterclaim ¶ 5 (DA); docket item no.**1-13**).

⁶ The above referenced e-mail is the account indicated on the from line in the USENET posting attached as Exhibit A to C

17. The Usenet is a portmanteau of "user" and "network" which predates the Internet and is a worldwide distributed discussion system where subscribers (using special news reading software) can read and post public messages either under their own names or under assumed fictitious names to one or more hierarchical categories, known as "newsgroups." The terminology related to Usenet users can be a bit confusing to the uninitiated; the following are TERMS commonly used on the Usenet:

Article – is a post or message.

Discussion/Thread – a series of Usenet articles consisting of an initial post and all of the follow-up posts. Google and newsreader software clients organize threads to show responses in a nested style with consistent timestamps and ">" characters are added to the beginning of each line of the text in each prior posting allowing users to provide line-by-line or paragraph-by-paragraph response/comments to the previous poster.

Follow-up/Reply – an article that is posted in response to an original article's subject matter.

Handle – a username or alias selected by a Usenet participant

Post – a single message on the Usenet

Subscribe – the process of selecting and monitoring newsgroups that a Usenet participant considers interesting.

(Lamb Counterclaim ¶ 7 (DA); docket item no.1-13).

18. The Usenet is organized hierarchically into several top-level newsgroup hierarchies (the "Big-8"). Some popular examples are: alt (alternative newsgroups - typically newsgroups devoted to offbeat discussions of alternative ways of looking at things), rec (recreational and hobbies), sci (science related newsgroups) and misc (miscellaneous grab-bag category). Each top-level newsgroup is appended by a "dot"

to indicate a link to one or more subcategory news groups. For example: misc.jobs and misc.forsale.sites are newsgroups devoted to job seekers or various items for sale.

(Lamb Counterclaim ¶ 8 (DA); docket item no.1-13).

19. Plaintiff Charles Novins either as an individual or on behalf of Charles Novins, Esq., P.C. a/k/a Law Offices of Charles Novins PC has been associated with or has used the posting names or profiles of Charles Novins <taxslave@free-market.net>; Robert Charles <taxslave@free-market.net>; Atlas Bugged <atlasbuggedbyspam@gmail.com>; NewParadigmLawfirm cnjlaw@gmail.com; The Atlas Bugged Experience; and Charles Novins (Osterwalds Counterclaim ¶ 14 (DA); Lamb Counterclaim ¶ 2 (DA); docket item no.1-13).

20. Plaintiff Charles Novins either as an individual or on behalf of Charles Novins, Esq., P.C. a/k/a Law Offices of Charles Novins PC, or using posting names posted to various newsgroups in the Usenet system including alt.sex.prostitution, alt.usenet.kooks, and humanities.philosphy.objectivism. (Osterwalds Counterclaim ¶ 15 (DA);

21. alt.usenet.kooks ("AUK") is a Usenet group organized as a subtopic under the alternative top-level hierarchy and devoted to the presentation and examination of odd-ball behavior or debunking strange personalities found on the Usenet. According to the AUK FAQ (frequently asked questions), the AUK newsgroup is for the discovery and discussion of Kooks on Usenet and the Internet. These individuals are known technically as "net.kooks." According to the AUK FAQ a net.kooks is:

If you post uniquely strange, preferably incomprehensible articles, or you manifest a persistent, extreme, and somewhat bizarre obsession, you just might be a net.kook. And more.

It is important to note the subtle distinction between a net.kook, a net.cretin, a clueless newbie, troll, or garden-variety @\$\$hole. The newbie, one hopes, can acquire a clue on the installment plan even if he can't afford to buy one for cash; the cretin is merely stupid and/or irritating; the troll makes a fool out of himself by making a fool out of you, the @\$\$hole is, well, simply that. But a TRUE net.kook has a special fascination derived

from his/her/its utter ineffability. Their behavior is irrational, if not downright weird, but they are seldom merely boring.

It is not considered appropriate to nominate clueless newbies, trolls, or longwinded spambrains as net.kooks. It is acceptable to nominate net.cretins, or simply to present them, without nomination, for whatever minor amusement value they may have; but the real focus here is on net.kooks in all their raging, indomitable glory.

Important Disclaimer: the fact that someone has been proclaimed a net.kook does not imply any psychological diagnosis in and of itself. A net.kook may or may not be clinically insane; that is not the concern of the AUK audience. We hope.

(Lamb Counterclaim ¶ 9 (DA); docket item no.1-13).

23. *AUK Awards* are a suite of awards and titles or imaginary offices awarded to individuals who exhibit the above described behavior. Chief among them is the “Kook of the Month award.” The Kook of the Month Award is the result of a monthly vote tally of all participants in the AUK group and the vote is tabulated by a group member holding the title “Friendly Neighborhood Vote Wrangler” (hereafter “FNVW”).

(Lamb Counterclaim ¶ 10 (DA); docket item no.1-13).

24. AUK, a group which Richard “Vince” Lamb is a member and which Lamb previously assisted in organizing as FNVW is not a hate group. (Lamb Delc. ¶ #; docket item no. 52 (August 16, 2010 Sanction Order ¶ 3)

25. Google Search Engine is a very well-known and popular Internet search engine which also, inter alia, provides access to one of the most frequently used means of accessing the Usenet via their site “Google Groups”. Google also provides the ability to search newsgroups via Google’s “New Group Archives”, a search engine which is the largest collection of indexed Usenet newsgroup archives, including posts just hours old to posts dating back to May 12, 1981. In addition, Google Groups contains a Query language - a sophisticated and well-documented language which allows all standard types of searches using Boolean searches (AND, OR, and NOT) as well as phrase searching. Google Group websites are located at groups.Google.com. On information and belief, a user who believes that he has been libeled may at any time send an e-mail

to the address groups-abuse@google.com describing the abuse and ask that the libelous material be removed. Google provides this information in each posting on the Usenet. For example, this information is prominently displayed on page one (1) of Exhibit A attached to the Plaintiffs' Complaint, in the header information, line 15, labeled "X-Complaints-To: groups-abuse@google.com".

(Lamb Counterclaim ¶ 11 (DA); docket item no.1-13).

**FACTS SPECIFIC TO THE ALLEGATIONS IN
COUNTS ONE (1) THROUGH NINE (9) OF THE COUNTERCLAIMS**

26. On or between June 17, 2007 to June 29, 2009, Dr. Lamb under his secret handle "Pinku-Sensei" held the title "Friendly Neighborhood Vote Wrangler" (hereafter "FNVW") on AUK and encountered Plaintiff Charles Novins appearing under his name or handle "Atlas Bugged" on AUK. (Lamb Counterclaim ¶ 12 (DA); docket item no.1-13; Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB- 1-21 (USENET thread). At that time, Plaintiff Charles Novins was having an online dispute with Novins' nemesis "Roger" who appeared on AUK with numerous handles such as "Dorkless Von Heinybiter" and "Lio Convoy". (Id. at *LAMB-1) The dispute between Plaintiff Charles Novins and Roger originated on Novins' home newsgroup, alt.battlestar.galactica. Id. At the time period set forth above, Roger attempted to nominate Plaintiff Charles Novins for the Kook of the Month Award under one of Rodger's identities "Dorkless Von Heinybiter", and attempted to second Novins' nomination under another handle "Lio Convoy". Id. Dr. Lamb refused to nominate Plaintiff Charles Novins for a Kook award due to the lack of then existing evidence and due to Dr. Lamb's finding that the nomination was based upon multiple nominations by the same user (Roger). Id.

27. On June 22, 2007, Plaintiff Charles Novins claimed that Dr. Lamb had declared Roger a Kook. (Lamb Counterclaim ¶ 13 (DA); docket item no.1-13; Duncan Delc 62-

1 ¶ 12, Exh. E *LAMB-2) In response Dr. Lamb indicated that he did not declare Roger a Kook. In response, Plaintiff Charles Novins posted additional postings on AUK on June 25, 2007, June 28, 2007, June 29, 2007 and June 30, 2007 wherein he indicated that Lamb must provide Novins with information on the identity of Roger or else “I’ll probably file this week. I am an attorney”. (Lamb Counterclaim ¶ 13 (DA); Id. at *LAMB-1-21) Counter-Claimant Lamb ended communication with Plaintiff Novins after this encounter. (Lamb Counterclaim ¶ 13 (DA))

28. On September 13, 2007,⁷ Plaintiff Charles Novins sent an e-mail to Defendant and Counterclaimant Lamb at his school issued e-mail address originating from the e-mail address atlasbugged@gmail.com and contained a subject line: “Atlas Bugged calling!” (Lamb Counterclaim ¶ 14 (DA); Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB- 1-24) The message was sent at 4:44 a.m. in the morning. In a cryptic matter, Plaintiff Charles Novins indicated that he was or was not Charles Novins. Id. The stated purpose of the September 13, 2007 e-mail was to force Dr. Lamb to determine and/or reveal the identity of Roger. Id. In that e-mail Novins indicated that Defendant Lamb would be

“... served in a few days with a law suit. If you ain’t the guy, it isn’t going to matter, just go through the motions and you’ll be done with it”.

Id.

29. Counter-Claimant Lamb never provided Plaintiff Charles Novins any personal information such as the name of his employer or work address. Plaintiff Charles Novins or Charles Novins, Esq., PC hired a private investigator (or other individual or corporation) to obtain private facts about Lamb. (Lamb Counterclaim ¶ 16 (DA))

30. On September 17, 2007, Plaintiff Charles Novins sent a fax to Gary Casey, Director of Human Resources, Oakland Community College with a reference line: “Complaint regarding a member of your faculty, Richard V. Lamb.” (Lamb Counterclaim ¶ 16 (DA); Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB- 25) That September 17, 2007 fax accused Professor Lamb of engaging in libelous and criminally

⁷ Defendant and Counterclaimant Lamb received (read) this email from Plaintiffs on or after September 30, 2007, Counter- and a subsequent September 28, 2007 e-mail from the Oakland Community College Director of Human Resources, Gary Casey (Counter-Claimant’s employer).

harassing activities on USENET. Id. Moreover that fax threatens the filing lawsuits in both federal and state venues. Id. The fax also asked Casey to "consider whether or not he [Lamb] may be a liability to the school." Id.

31. A September 28, 2007 e-mail from the Oakland Community College Human Resource Director was prompted in response to the September 17, 2007 fax Charles Novins sent under his law firm's letterhead to that Human Resource Director (as well as the September 18, 2007 phone call). (Lamb Counterclaim ¶ 15 (DA); Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB- 32) That September 28, 2007 e-mail directed Dr. Lamb to contact Director Casey to set up a meeting to discuss a confidential matter. Id.

32. On September 30, 2007, Defendant and Counterclaimant Lamb made the following post on USENET:

Finally, I have one last item of business with Atlas before I escort him into the Galactic Killfile. It has come to my attention that Atlas has repeatedly 1) told the FNVW how to run the USENET Kook Awards, 2) done so even after being warned that such behavior would earn him a special award, 3) attempted to undermine the authority of the Friendly Neighborhood Dictatorship of this august and venerable newsgroup, and 4) made threats of real-life consequences for the FNVW if events on AUK fail to be as he desires. There is an award for such behavior, one that has been earned by vastly overreaching trolls and exceptional assholes as well as kooks, the Tinfoil Sombrero.

"An executive award, a Vote Wrangler's privilege, to grant to those out there who would seek to overthrow the Friendly Neighborhood dictatorship of this froup. Time and again various Kooks have attempted to either hijack the awards, start votes of their own, or give the FNVW a free non-expenses-paid ticket to the Motel Deep 6. This should never go unpunished. Such insubordination goes beyond the normal bounds of those wacko enough to wear the tinfoil hat, therefore, the FNVW shall have the privilege of granting the TINFOIL SOMBRERO, upon receipt of substantial enough evidence of said insubordination."

After nearly four months of the behaviors summarized above, Atlas has finally reached the threshold for this award. Therefore, I hereby crown Atlas Bugged of alt.tv.firefly with the TINFOIL SOMBRERO. May he enjoy his new metallic headwear in the Galactic Killfile.

(Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB- 22-23)

33. On or about October 3, 2007, Mr. Novins sent the Director of Employee Relations, Gary Casey a second fax wherein he threatened and insulted the Director for

not responding to him and threatened a law suit against Oakland Community College unless the Director complied with Novins' demands. (Lamb Counterclaim ¶ 17 (DA); Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB- 28) Plaintiffs sought personal information on Lamb as well as information leading to identify of Novins' nemesis Rodger Id.

34. On October 24, 2007 the Director of Employee Relations, Gary Casey send a second e-mail to Defendant and Counterclaimant Lamb to arrange an in-person meeting between Casey and Lamb (Oakland Community College has multiple campus and Lamb taught classes on one campus while Casey ran the Personnel Department on another) . (Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB- 34) The e-mail was carbon copied to Mary M. Chambers, Casey's assistant. The actual in-person meeting occurred on Monday, October 29, 2007 Id.

35. On or about October 16, 2007 Plaintiff Novins sent a letter to Lamb's physical work address (2480 Opdyke Road, Bloomfield Hills, Michigan 483-2266) indicating that he had spoken to the personnel department at Oakland Community College. (Lamb Counterclaim ¶ 18 (DA); Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB- 33) In that letter Charles Novins indicated that he was giving Lamb "a chance to avoid being named in a lawsuit [Charles Novins or Charles Novins, Esq., PC] prepared and [was] readying for filing". Id. Novins also indicated that he would not file the lawsuit naming Lamb if, *inter alia*, Lamb provided Novins with "identifying data on various posters who participated in the [June 2007] thread". Id. Plaintiff Charles Novins wanted information on his nemesis Rodger. Id. The letter concluded indicating that within two

weeks from the date of the letter Lamb would receive a “summons, complaint, and subpoena”. Id.

36. On October 19, 2007, Plaintiff Novins posted to the Usenet and bragged about reporting Counter-Claimant Lamb to his employer and that he was about to serve process on Lamb. (Lamb Counterclaim ¶ 19 (DA); Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB- 35)

37. On December 13, 2007, Novins made the following statement on USENET:

Stay tuned. I’m filing more federal suits in the course of my regular business these days, and with ECF and PACER procedures, the whole thing is becoming more trivial by now.

The sole problem is the \$350 door-fee. If it was like \$15, I would have sprayed out 20 of them by now.

Anyone legitimately victimized by a hider will get free lawyer service if they want to make the filing fees and they can pin a true name on the prep. Drop me a line for more info.

I figure if I tag just one or two of these rat-fucks – publicly, of course – the rest will disappear in a half-hour.

(Duncan Decl. 62-1 ¶ 12, Exh. H * LAMB- 63)

38. On December 24, 2007, at 3:10 P.M., Novins sent Lamb an e-mail containing the following threat:

You will either help me track down this psychotic vicious troll, or your going to stay on my radar.

Naturally, I will instantly file a federal lawsuit with respect to this, and you’ll be included, along with the college.

(Lamb Counterclaim ¶ 20; (DA); Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB- 36)

39. Counter-Claimant Lamb did not take any action with respect to the December 24, 2007 e-mail with respect to that threat. Id.

40. On February 13, 2008 an unknown individual posted a message on several USENET newsgroups (hereinafter "February 13, 2008 USENET posting") alt.culture.alaska, alt.battlestar-galactica, alt.tv.scifi.channel, alt.tv.firefly, alt.tv.stargate-atlantis. (Plaintiff's Complaint, Exh. A; docket item no. **1-6**) That February 12, 2008 USENET posting stated that Plaintiff Charles Novins hires drug addicts that Plaintiff's clients have suffered identity thefts, and that Plaintiff is mentally ill. Id. The message lists the name "Kevin Cannon" in the "From" line. Id.

41. Defendant/Counterclaimant Richard "Vince" Lamb **did not** post or republish any defamatory statements or use any alias to republish defamatory statements or assist other defendants or unknown persons in posting or republishing the February 12, 2008 USENET posting (docket item no. **52** (August 16, 2010 Sanction Order ¶ 3) Moreover, there are no online posting which prove that Defendant/Counterclaimant Richard "Vince" Lamb utilizes one or more aliases to commit libel Id.

42. On March 11, 2008 Plaintiffs authored and send an e-mail to Rhonda Lea Fries at her e-mail address rhondalea@gmail.com stating *inter alia*:

. . . .
 . . . I don't intend on hurting him [Cannon] too badly as long as he pays ball.

He [Cannon] recently posted, in effect, that my paralegals are drug addicts. The first post in the thread was a spoof, then he [Cannon] reposted it, then others wisely replaced all the RL ["Real Life"] information.

(Duncan Decl. 62-1 ¶ 12, Exh. G * LAMB- 70) The term “Spoof” is altering an email address, IP address, or other information of a message to make it appear as though the message originated from a different source than the actual one. This practice hides the true sender's information and prevents others from following a trail back to the true source of the message. (Lamb Delc. ¶ 17)

43. On December 22, 2008 Plaintiff Charles Novins published the following statement about Defendant and Counterclaimant Lamb:

Thirderd! Apparently a pathetic little tranny and his fanbois – probably mostly fakes posted by himself. More – or less – pathetic if they’re real” You decide.

(See. Barnard Delc. ¶ 6; Duncan Decl. 62-1 ¶ 13, Exh. F * LAMB-61) The Plaintiffs’ reference to “Tranny” is intended to convey the false impression that this Defendant is a transvestite. Id.

44. On December 26, 2008 Plaintiff Charles Novins published the following statement about Defendant and Counterclaimant Lamb:

It’s why junior-college, tenured-but-incompetent tranny-sue is leader

(See. Barnard Delc. ¶ 7; Duncan Decl. 62-1 ¶ 13, Exh. F * LAMB-62) The Plaintiffs’ reference to “Tranny” is intended to convey the false impression that this Defendant is a transvestite and the referenced to “junior-college” is intended to refer to Oakland Community College” and “incompetent” is intended to refer to Dr. Lamb’s competency as a Professor at Oakland Community College. Id.

45. On January 24, 2009, Counter-Claimant Lamb, as FNVW for AUK and on behalf of another Usenet user, posted a message entitled “WINNERS! Kook of the Year, 2008”. (Lamb Counterclaim ¶ 21; (DA); Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB-

37-39) That posting was the yearly nominations for awards for AUK. Id. In that thread a nomination was made for Novins handle “Atlas Bugged’s” (not the handle or name “Charles Novins”). Id. The nomination was prompted because of Novins’ obsession with the use of the notlong.com link as a candidate for “the kooksite of the year” award. Id. Novins handle only received one vote and did not win the award. Id.

46. On or about January 27, 2009 Plaintiff Novins posted a reply message on AUK to Lamb’s January 24, 2009 thread.

Pinku, leave my handle out of your posts, and don’t mention me ever in your ridiculous “awards.”

So far, by ignoring me completely, you’ve displayed a smattering of brains unlike other AUKtards.

If I see my handle in any post made by you, there will be consequences, as there will for even this one.

Back on my radar. No upside in that for you.

(Lamb Counterclaim ¶ 22; (DA); Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB- 40)

47. After January 27, 2009, Lamb received a letter at his work address from Novins wherein Novins refers to the January 24, 2009 posting on AUK by Lamb. (Lamb Counterclaim ¶ 22; (DA); Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB- 41, 43) In that letter Novins requested *inter alia* that Lamb provide identifying data on Novins’ nemesis Roger as well as “various posters who participated in the thread, “including all offline communications with them, including headers where e-mails were exchanged.” Novins indicated that “information must lead to useful identification or this offer is unavailable.” Id. The “offer” Novins’ referred to was Novins’ offer not to sue Lamb if Lamb gave Novins the real names of all the handles of the persons on AUK including

Novins' nemesis Roger. Id. Moreover, Novins demanded complete editorial control over the content of all discussion on AUK. Id.

48. On February 13, 2009 (or after), Plaintiffs file a complaint alleging that the February 13, 2008 USENET posting defamed the plaintiffs and was authored by 9 individual defendants⁸. (Plaintiff's Complaint docket item no. 1-6).

49. On February 18, 2009, Novins contacted the Oakland Community College Director of Human Resources, Gary Casey via fax and indicated that a lawsuit was about to be filed. (Lamb Counterclaim ¶ 24; (DA); Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB- 42) In that February 18, 2009 fax, Plaintiffs indicated that Dr. Lamb failed to "... make any effort to contact me [Charles Novins] at all, and ignored my [Charles Novins] overtures to him" since the fall of 2007. Id. In addition, Plaintiffs requested that Casey release Dr. Lamb' home address for service. Id.

50. On that same date, February 18, 2009, Plaintiff Novins posted a message on AUK entitled "PING: Pinku." (Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB- 45) In that post, Plaintiff Novins invited Lamb to call him to discuss what he referred as the pending lawsuit. . Id.

51. On February 19, 2009, in a follow-up thread, to another USENET poster (going by the handle "John C.") in a thread entitled "The Lowly Community College Biology

⁸ The caption page actually inexplicably names three corporations; Google, Incorporated, TSB Bearings, Inc. and Databasix, Counterclaimant Lamb' employer Oakland Community College (a Michigan community college) and lists several other additional fictitious names without making any reference to, or allegations against them in the complaint.

Instructor” & Tranny “, Plaintiff indicated that he talked to the Dean of Oakland Community College about Lamb “several times.” (Lamb Counterclaim ¶ 25; (DA); Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB- 47) In that thread, Novins also indicated that his motivation in contacting Lamb’s employer was to get Lamb fired. Id.

Plaintiffs made the following statements in that USENET posting:

They generally protect Pinky, but now that both have been named in a real-deal lawsuit, I expect them to kick him to the curb.

I used to work for the guv’mint, and I know the drill.

They huddle together and protect their own . . . right up to the minute that they decide your’re a liability.

Then, in a heartbeat, they toss you in the lake.

Pinky knows what I mean.

Id. Novins further stated that he was preparing an article for publication in several local Michigan newspapers entitled “internet bullies” which would mention Lamb and his employer Oakland Community College. Id.

52. On February 22, 2009, at 5:45 a.m., posted an item on AUK entitled “‘Kook Award’ Conclude – Permanently” where Novins demanded that the AUK awards discontinue and that he was engaging in economic warfare with against AUK to make “the costs more than the rent you pay”. (Lamb Counterclaim ¶ 26; (DA); Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB- 48-49)

53. On or about March 2, 2009, Plaintiff Novins posted a message on AUK with the Subject Line “‘Free Speech’ Hypocrites” where he published a link to Lamb’s employer, Oakland Community College, and further indicated that he would publish

Lamb's home address "next week". (Lamb Counterclaim ¶ 27; (DA); Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB- 50-52) Plaintiff also claimed to have hired an investigator to look into various people on the Usenet (i.e., Usenet users). Id. Novins also indicated that he was considering publishing an article in "Michigan newspapers about the "community" college." u. In that March 2, 2009 posting by Plaintiffs they stated that:

I would recommend letting Vince's college know about his AUKtivities.

<http://pinkocc.notsolong.com>

I think he has friends there, so I've had trouble getting their attention, but I think Vince seriously misunderstands how public entities operate. Everyone covers *their own* ass, in the "end."

Id.

54. On or before March 3, 2009, Novins published Lamb's home and work address and Lamb's photo on Novins' Comcast webpage:

<http://home.comcast.net/~abcc/BuggedKookPage.htm>. (Lamb Counterclaim ¶ 30; (DA); Duncan Decl. 62-1 ¶ 12, Exh. E * LAMB- 56-60) In addition, Novins falsely alleged that Lamb organized and assisted various hate groups so they could avoid prosecution. Id. Lamb as well as other affected co-defendants attempted to shut down Novins' website (i.e., his Comcast webpage) without success. Id.

55. On March 5, 2009, Novins posted a message on the Usenet that his intent in filing the law suit is to get Lamb fired from his job. (Lamb Counterclaim ¶ 31; (DA))

56. On or about March 9, 2009, Novins posted on AUK and other sites entitled "Contact Pinku!" where he posted Lamb's home address, work address, date of birth and invited others to contact Lamb and his employer Oakland Community College to

invade his privacy. (Lamb Counterclaim ¶ 32; (DA); Duncan Decl. 62-1 ¶ 12, Exh. E *

LAMB- 54-55) In addition, Plaintiff made the following statements:

The College administrators have confirmed for me that this "professor" posts intimidating, reckless, libelous, and intentionally hateful material under the pseudonym "Pinku-Sensei" here in this newsgroup, and elsewhere.

It's his "hobby," I suppose, but he probably needs professional counseling, since he does it in the face of a civil suit I've filed (after being victimized by him) and in the face of being disgraced in his profession and among his peers.

I recommend that anyone libeled or otherwise assaulted by this particular reprobate write him a polite letter asking him to stop, and letting his employers know that he brings shame upon the institution.

I have other confirmed information about him (such as his marriage data and other vitals,) but this info has no legitimate need to be public, and I try to live within civil society, even if Lamb has taken the opposing tact.

Id.

57. Since commencing their law suit in the Ocean County Superior Court in February 2009 till December 11, 2009 (the day after the Case Management conference in the instant case) Plaintiffs posted comments about the law suit and about the defendants to USENET under their handle "Atlas Bugged." (See. Duncan Decl. 62-1 ¶ 12, Exh. G * LAMB- 73-103). From December 11, 2009 to January 1, 2010 Plaintiffs posted under the handle "Albert Ekman." (Duncan Decl. 62-1 ¶ 12, Exh. G * LAMB- 103-104).

58. On June 6, 2010 several anonymous USENET postings under the handle "Nomen Nescio" were posted to alt.usenet.kooks containing statements about Cannon, Dr. Lamb and the Osterwalds. (Duncan Decl. 62-1 ¶ 12, Exh. G * LAMB- 106-111). The statements were mainly directed at Dr. Lamb and the Osterwalds and provided the Osterwalds and Dr. Lamb's home address, Lamb's work e-mail address (suggesting to

“E-mail bomb the prick”) as well as various defamatory statements mainly directed at Lamb and Osterwald. Id.

Exhibit
Lamb 38

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Date: Thu, 30 Dec 2004 15:07:29 +0000 (UTC)

Local: Thurs, Dec 30 2004 11:07 am

Subject: **Re: Tsunami Aid - Where to Give?**[Reply to author](#) | [Forward](#) | [Print](#) | [View thread](#) | [Show original](#) | [Report this message](#) | [Find messages by this author](#)

"Kathryn P. O'Mara" <ka-84796@attbi.com> wrote in message
<news:1104414929.233839.23500@cc13q2000cwb.googlegroups.com>...

> As Kolker points out, Thailand (Siam) has no king, as it is a republic.

I thought he was kidding. I travel to Thailand often (though not in the last 10 months.) It's self-described as a kingdom and there is a king and a queen. Tourists are cautioned to never insult either publicly. Did I miss something in the last few months? I know there is a civil government in addition, but not in place of, the kingdom.

I happen to love Phuket so I was personally affected by the fact it was destroyed. I think it got excessive news coverage. BTW, because many Americans have enjoyed it at one time or another.

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